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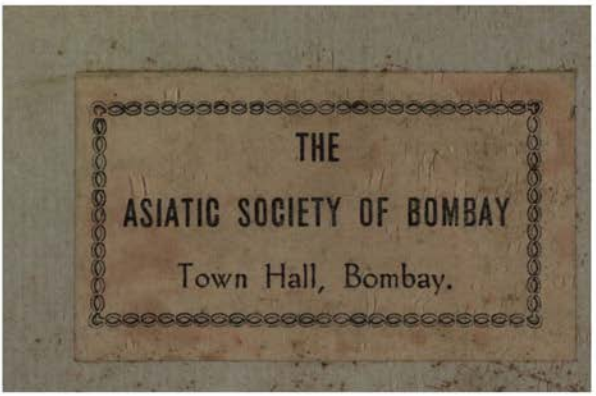

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History is past Politics and Politics present History—*Freeman*

EXTRA VOLUME
XII

THE OLD ENGLISH MANOR

A STUDY IN

ENGLISH ECONOMIC HISTORY

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TO MY FATHER.

PREFACE.

Investigation into English economic history has now reached a point where all material which will throw any light whatever upon the difficult problems concerned is welcome. It has seemed to me necessary, therefore, while limiting the field strictly to the manorial organization and life, to omit nothing in the accompanying essay which might prove of even the slightest value. Recent work in this subject has shown that questions of greatest moment can be brought nearer to a solution by attention to the minutiae of local life and custom than by the study of law books and state documents. The fact that my investigation has been carried on in America, away from contact with English manorial life, as it exists to-day, and away from the sources and students of English economic history, has made it necessary to rely almost entirely upon printed documents. This is perhaps not so serious as it would have been had the period been a later one. It cannot be expected that in a constructive work of this kind error has been wholly avoided, but it is hoped that this essay will give to future students a fuller knowledge, at least, of Anglo-Saxon economic life, a knowledge which seems very essential to an understanding of the economic history of the ensuing four centuries.

I wish to express my indebtedness for many kind suggestions to Dr. James W. Bright of Johns Hopkins University, Dr. Charles Gross of Harvard University, and to my colleague Professor F. H. Giddings of Bryn Mawr. It is a matter of regret that the second series of Professor Vinogradoff's essays has not yet appeared, for they must throw much light upon many of the problems treated in my own study.

CHARLES M. ANDREWS.

BRYN MAWR COLLEGE,
May 7, 1892.

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"THE OLD ENGLISH MANOR," BY C. M. ANDREWS, PH. D.

CORRIGENDA.

Page 53, note 2, line 5, for 'and cwœð' read 'and cwæð.'
" *55, note 4, line 4*, after '*Cartularium Saxonicum*' insert 'Vol. I.'
" *84, note 2*, for 'Mediæval' read 'Agricultural.'
" *93, note 1, line 4*, and *passim* for '*Diplomatarium Saxonicum*' read '*Diplomatarium Anglicum.*'
" *98, line 19*, for 'Aelfred the ealdorman' read 'Duke Elfred.'
" *104, note 1, line 7*, after 'sylfyne' insert 'ðanon on Smececumb ðanon on Sengetlêge.'
" *130, note 1*, for '*Ine*, 51' read '*Ine*, 63.'
" *134, line 25*, and *passim*, for 'baliff' read 'bailiff."
" *136, line 6*, for 'named' read 'name.'
" *142, note 2, line 1*, for 'Chancer' read 'Chaucer.'
" *155, line 19*, for 'improbable' read 'probable.'
" *168, note, line 12*, for 'hicwisc' read 'hiwisc.'
" *214, note 2*, add, 'Birch, *C. S.* II, 523.'
" *254, line 30*, for 'Sabines' read 'Sabæans.'
" *260, line 1*, delete 'the' before 'Aethelberht.'

THE OLD ENGLISH MANOR.

Introduction.

The theory of the Mark, or as it is more generally called in its later form, the free village community, has been an accepted hypothesis for the historical and economic world for more than half a century. Elaborated and expanded by the writings of Kemble in England and v. Maurer in Germany, taken up by later English writers and given wide currency through the works of Sir Henry Maine, Green and Freeman, it has been accepted and extended by scores of historical writers on this side of the Atlantic as well as the other until it has become a commonplace in literature. Firm as has been its hold and important as has been its work, it is almost universally conceded that further modification or entire rejection must be the next step to be taken in the presence of the more thorough and scholarly research which is becoming prominent, and before all questions can be answered which this study brings to light. A change has taken place in the thought upon this subject; a reaction against the idealism of the political thinkers of half a century ago. The history of the hypothesis forms an interesting chapter in the relation between modern thought and the interpretation of past history, and shows that in the formation of an opinion both writer and reader are unconsciously dependent upon the spirit of the age in which they live. The free village community, as it is commonly understood, standing at the dawn of English and German history is discoverable in no historical

documents, and for that reason it has been accepted by prudent scholars with caution. But the causes which have made it a widely acceptable hypothesis and have served to entrench it firmly in the mind of scholar and reader alike, have easily supplied what was wanting in the way of exact material, and have led to conclusions which are now recognized as often too hazy, historically inaccurate, though agreeable to the thought tendencies of the age. The principles of equality and political liberty, in general the outcome of the liberal tendencies of four centuries, more definitely the fruits of the French Revolution, found themselves endangered by the Restoration in France and the Reaction in Germany. The thoughts of the French and German historical writers, turned away from the present to the past through the influence of the Romantic movement, found a fruitful field of speculation in the primitive institutions of their race. The liberal German movement of that period from 1815 to 1840, gave a strong German bias to much of the historical work and even masters like Grimm were not exempt from the regret that the Germans were ever subject to the influence of the Roman civilization. This Philo-German spirit, given fresh stimulus through the still youthful science of comparative philology, which made its most serious error in the conclusion that an Aryan language meant an Aryan race, soon began to develop utopian conceptions of the fundamental rights of man. It is not strange, therefore, that at that time, when the science of history was in its infancy, writers conscious of their emancipation from eighteenth century methods and struggling for the establishment of the new liberal principles, should have lost themselves in the fog of the new world open to them. The minor writers went hopelessly astray on the subject of old Teutonic freedom, the perfectibility of democracy, the liberal ideas of the age as the panacea for all that was politically and socially wrong; and they found their exemplar in English constitutional and parliamentary rights. Little wonder is it that the work of the master writers Eichhorn, Zeuss, Grimm and Leo was also

influenced in no small measure by these same ideas. It was in this age that the Mark theory was born, in this age that the conception of the primitive Aryan and the primitive Teuton as independent freemen possessing equality and exercising all the rights for which the people of Germany were struggling, took its rise. Without any adequate knowledge of the real life and character of this primitive barbarian and seeing only that he was apparently free and untrammelled in the liberty which he enjoyed, the historians clothed him with those very attributes which the political ideals of the first half of the nineteenth century were seeking to make real; he became, as it were, a lay model draped with the assumptions of the idealists, reminding them of what the world had once possessed, but which it possessed no longer.

Two influences were at work preparing the way for the ready acceptance of the theory in England. These were the demand for the extension of the franchise, which met with its first success in 1832, and the discovery of the fact that the constitutional history of that country did not begin with the Norman Conquest. The work of Hickes, Wilkins, Turner, Palgrave, Thorpe and Kemble had revealed a history of more than five hundred years, about which the intelligent English public had known practically nothing. Kemble, who had been a pupil of Grimm, brought to his researches in this field a mind tutored in the method and spirit of German writing. Drawing his inspiration from Grimm, Eichhorn and Zeuss, and finding his material in the charters that he so assiduously studied, he discovered that, at the beginning of English political history, there had existed the Mark system in all its primitive purity. The independent Saxon, as a noble freeman took his place beside the Teuton, and two results were accomplished eminently satisfactory to the English mind. The extension of the franchise was not only the recovery of the original rights of the English freeman, but it was also the winning back of the common heritage of all Teutonic peoples, for the old home of the English race was

now found to be in the forests of Germany on the one hand, and the new home in the free soil of America on the other, where were to be seen in actual operation all the features of this primitive democracy.

This splendid broadening of the historical horizon took men's hearts by storm, and the conclusions arrived at became so firmly fixed in the minds of German, English and American scholars, that it seemed almost heterodoxy and disloyalty to question the foundation upon which they were based. But antagonistic influences have been at work to weaken this confidence and to unsettle once more the minds of men regarding the primitive institutions of our race. The liberal optimism of Europe, and, indeed, of America as well, before 1870, has taken on a more sombre hue since that time, and, by a reactionary change in the tendencies of thought in the last two decades, the idealized primitive freeman has been gradually vanishing into the background, and the voice of cautious scholarship has been making itself heard. Even though still satisfying the popular sense, which accepts results and does not often criticize them, the older views have yet to stand the test of the iconoclastic spirit, which now pervades historical writing, and already may it be said that the theory, full of undoubted truth as it is, will hardly be allowed to remain in its present form. As the world has learned that, even with the fulfilment of those aspirations which were so long a mockery, its highest hopes have not been realized, and that the human nature of the individual and the combined action of the masses are pervaded with brute instincts and fallibility so it is willing to be told that primitive man, whether he were Saxon, Teuton or Aryan, was very much lower down in the scale of human development than the older view was willing to place him; that his freedom, of whatever nature it may have been, was still very different from that of the free citizen; that socially, intellectually and politically he was at this early period but beginning to show traces of a civilized consciousness, and but beginning to give form to those instincts upon which a higher

political life was to be built. This must lead to the desire for a truer historical picture, for the application of a truer historical method. It has already been seen that the question is by no means so simple as the older school would have it to be, and as we begin to realize more fully the necessity of co-operation rather than criticism, there will develop a growing unwillingness to express dogmatic opinions. It is becoming evident that no one scholar can solve the problem; its dimensions are so vast, its elements so varied and so deeply hidden, that it may be considered a sufficient reward to the laborer if there be granted to him a share, small though it may be, in the final working out of the whole. In a field where so many have labored for so long a time, there is no place for the belief that to one and to him alone has any particular truth been revealed. To add what we may to this sum total of knowledge is all that we may hope to accomplish; to write impartially is always a goal in itself. Historical fairness always assists the search for truth, and therefore we write in an historical not a controversial spirit.

The Mark as defined by Kemble, who felt in this interpretation the influence of the German writers already mentioned, was a district large or small with a well-defined boundary, containing certain proportions of heath, forest, fen and pasture. Upon this tract of land were communities of families or households, originally bound by kindred or tribal ties, but who had early lost this blood relationship and were composed of freemen, voluntarily associated for mutual support and tillage of the soil, with commonable rights in the land within the Mark. The Marks were entirely independent, having nothing to do with each other, self-supporting and isolated, until by continual expansion they either federated or coalesced into larger communities. Such communities varying in size covered England, internally differing only in minor details, in all other respects similar. This view of the Mark had been taken already more or less independently by v. Maurer in Germany, and five years after the appearance of Kemble's work,

there was published the first of the series of volumes which have rendered Maurer's name famous as the establisher of the theory. As his method was more exact, his results were built upon a more stable foundation than were those of Kemble, but in general the two writers did not greatly differ. Maurer entered into a detailed examination of the village and town life of Germany, and thus avoided the vague indistinctness of Kemble's work. The particulars regarding the political, social and agrarian life were more carefully worked out, the three-fold division of the *gemeinde* (community) was made, the field systems and the relation of each *markgenosse* (mark-associate) to his family, the community, and above all to the land, were explained and developed. On two points they were in substantial agreement, and the later researches of Nasse, in England, seemed to confirm this agreement; first, regarding the communal holding of land; and second, regarding the later history of the Mark or *gemeinde* and its development into the manor.

An examination of the first of these questions is hardly within our purview, and its settlement may seem as far off as ever. Fustel de Coulanges has, it is true, once more reviewed the entire documentary field with that thoroughness which characterizes all his work, and with positiveness declared against communal holding of land; but while he certainly has discovered many flaws in Maurer's argument, his work can hardly be considered conclusive. The material he uses is of a comparatively late date, when the Roman agricultural influence was of unquestioned importance, and he does not see that these documents, incontestably showing private ownership, may also show traces of a previous communal system.[1] Furthermore, his confidence in his own interpretations can hardly be considered a proof of the correctness of his views. It is doubtful if even so close and detailed an examination of documents, without some aid from comparative study, can

[1] Glasson, *Les Communaux*, 8, 52–53, 79–80.

explain the nature of primitive land-holding; and the judgment of M. Glasson and others tends to weaken our confidence even in his historical impartiality.[1] M. Fustel's influence has been most useful, but the final decision upon the merits of his own work has not and cannot yet be given. His books are to all appearances masterpieces of learning and critical analysis, and are undoubtedly conclusive on many points.

Our discussion has to do rather with the second point of agreement—the development of the village community and the origin of the manor. The interpretation, current fifteen years ago, was the natural outcome of the Mark theory and was somewhat as follows: The community was a voluntary association, a simple unit within which there were households or families of various degrees of wealth, rank and authority, but in point of status each was the equal of the other. Each was subject only to the customs and usages of the community and to the court of the Mark. The Mark was therefore a judicial and political as well as an agricultural

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[1] M. Fustel, in *L'Alleu et le domaine rural* (71–82), attacked M. Glasson's view regarding communal holding of land. This called forth a vigorous reply from the latter, *Les Communaux et le domaine rural*, in which he defends his position with entire success, and, turning the tables, accuses M. Fustel of superficiality and inexactness (32), of suppression (58 and 69), and misrepresentation (131–134). These are serious charges, yet M. Glasson does not stand alone. M. Dareste (in *Journal des savants*, 1890, 74–77), has expressed similar views. The main argument against Maurer may be found in *Revue des questions historique*, April, 1889, 350–391. A translation, edited by Professor Ashley, with a valuable introduction on the manor has been published, with the title *The Origin of Property in Land.* In an earlier work M. Fustel took a less positive attitude, and was less dogmatic in his statements. For example, in *Recherches sur quelques problèmes d'histoire*, 311, he says, "J'incline à croire que la propriété prévalait, puisque c'est elle qui a marqué de son empreinte l'ensemble du droit germanique. Mais, à côté d'elle, plusieurs modes de communauté ont pu être admis." One should read Monod's opinion in *Revue historique*, XLIV, 345–354. It is distinctly the most judicious of all the judgments passed upon the great historian.

unit, though cultivation of the soil was the primary bond of union. All offices were filled by election, but the incumbent in due time sank back into the general body of *markgenossen*. He who was afterwards to be the lord of the manor was originally only "the first Marksman," who attained to this pre-eminence in part by the prestige of election to a position of headship, in part by usurpation, and in part by the prerogatives which protection and assistance to weaker Marksmen brought.[1] Thus the first Marksman became the lord and held the others in a kind of subjection to himself, and received from them, though free, dues and services which grew increasingly more severe.

The main difficulty here seems to be in the premise, and it is the evident artificiality of the voluntary association of freemen which has led to such adverse criticism upon the whole theory.[2]

Inasmuch as it is true that the Mark as a primitive institution is based upon no evidence that can be called historical—that is, inasmuch as it is a hypothetical premise, an assumption which has found favor for economic and political rather than historical reasons, we may modify it without discarding it absolutely. It does not seem necessary to reduce the question to one of absolute acceptance or rejection; it does not seem necessary to decide whether the main bulk of humanity started absolutely free or absolutely slave—either extreme

[1] Kemble, *Saxons in England*, I, 55; Maurer, *Einleitung*, 232.

[2] Fustel de Coulanges calls it "puerile." *Rev. d. ques. hist.*, April, 1889, 426. Elton has spoken of the primitive community as a "rustic commonwealth which fancy has seen existing off in a golden age of the world." *Eng. Hist. Rev.*, July, 1886, 430. Earle characterizes Kemble's "Mark" as an "idyllic sketch of self-government." *Land Charters and other Saxonic Documents*, Introd., lv. Beddoe says that "it is necessary that we rid ourselves of the idea that our Saxon ancestors were a kind of democratic community with universal suffrage." *Races of Britain*, 60. Frederick Pollock says that he does not know of "any plausible evidence or any respectable authority for the notion sometimes met that England, under her Anglo-Saxon kings, was a paradise of yeomen." *Macmillan's Mag.*, vol. 61, 419.

bears the stamp of improbability upon its face; it is necessary to determine whether we have rightly understood the composition of the village community itself, and whether any light can be thrown upon the subject from a study of the circumstances out of which the village community came. Society did not begin with settled life; that represents a stage in its development. Tribal organization preceded the political; the village community finds its roots in this organization; it was not the artificial construction of a body of freemen acting voluntarily.

There are two methods by which the subject may be approached: first, the now familiar one of arguing from the the known to the unknown, full of manifest dangers, as Mr. Seebohm's work shows, because tending to distort historical perspective, though wonderfully fruitful in cautious hands; and second, comparative study, even more full of pitfalls than the other, and than which no system has been more abused. It must be remembered that analogies are rarely more than illustrations, and that by comparative study not proof, but hypothesis is to be gained. If in the working out of such hypothesis it comes into conflict with known facts, it must be modified. This method has been in the main that which we have here employed, though the illustrations are few, and the results largely conjectural.

Gomme, in his recent work on the village community has shown, although the fact was not new (McLennan and Maine had already advanced it) that the village community was not peculiarly Aryan. He has cited cases taken from three widely separated localities of non-Aryan communities; the Fijis, the Dyaks of Borneo, and the Basutos of South Africa. He shows clearly the communal character of their settlements; but in each case there is another element besides the free community, the chiefs, either hereditary, non-hereditary or elected. Among the Fijis in 1881 the chiefs had become a caste, but there is evidence to show that they had not always been such. At that time a land question was in dispute between the chiefs and those whom we may call the commoners, the latter claim-

ing the land by ancient custom and complaining bitterly of the "chief-like doings." They acknowledged that the chiefs had the power but denied their right. The evidence goes on to show that chiefs may have been the heads of kindreds, and this development from a tribal headship to a special caste class, is interesting though not unique.[1] Among the Dyaks the tribes live in villages, and at the head of each there is a chief. The members of each community live in harmony together, and the word of their chief is their law. Every village has its special symbol, probably totemistic. Above all is the rajah, and the chiefs of each village assemble in conference with him on all important occasions.[2] But most interesting of all is the case of the Basutos. The village has always the form of a large circle, the centre of which the flocks occupy, while the huts form the circumference. The most elevated spot in this circle of huts is occupied by the chief, and this representative of headship is without exception found in every village.[3] These people are not nomads, but sedentary, dwelling in the mountains. The position occupied by the chief is indicative of a far more primitive relationship than among the Fijis. He is one of the people themselves. The sons are obliged to live the life of simple *bergers* for a certain number of years, and even the chiefs themselves occasionally leave their position of authority and work with the others. The cultivated land belongs to the community, and no one can alienate or dispose of that portion which he cares for. The chiefs give out the lands, which are bounded with precision. When a dispute arises the case is submitted to the neighbors, and as a last resort to the chief. Pasturage under definite rules is common to all.[4] This is a fair type of a complete village community, but it is not democratic, there is a recognized head who gives out the land, and is a court of last resort.

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[1] *Land Tenure in Fiji Towns. Journ. Anthrop. Inst.*, X, 332–352.
[2] Bock, *Head Hunters of Borneo*, 210–220.
[3] Casalis, *Les Bassoutos*, 129–130. [4] Casalis, 168–169.

The most familiar type upon which the old theory rested was the eastern village community in India. It is necessary to take at least a look at the evidence there. In the three races, whose admixture in succeeding waves has made Indian society what it is now, the Kolarian, Dravidian and Aryan, there are the same elements which make up the village life. Among the Kolarians there are both hereditary and elected chiefs; among the Dravidians, with the exception of the Todas, who can scarcely be said to work or have villages,[1] there are generals-in-chief with subordinate chiefs, and in each village there is a head man and above him a moondah, who is the representative of the old moondah chief of the village. There is also a village council of considerable importance.[2] The hill tribes of the north and southeast all have their chiefs; sometimes he is the elder of the villege, sometimes the representative of the original ancestor, or for other reasons the recognized head, who receives generally no money tribute, but who has certain definite rights and privileges pertaining to his position.[3] In many of these instances, particularly where the life is settled, there is a village council. This council is not everywhere existent, and in only a few instances do we find it supreme. Even in the Aryan villages of Bengal and Ceylon, according to Sir John Phear,[4] the relation between the zamindar and the ryot in the former territory is quasi-feudal in character, while in the latter the inhabitants of the village are related and subordinated to the territorial head, who in these modern days is commonly spoken of as the proprietor, but who is plainly the historical successor and representative of the primitive chieftain. Even Sir Henry Maine knew of no thoroughly authenticated example of a head man of the

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[1] Marshall, *A Phrenologist among the Todas, passim.*

[2] Gomme, *Village Community*, 25–29.

[3] Lewin, *Wild Tribes of Southeastern India*, 169, 222, 250–251. Rowney, *The Wild Tribes of India, passim.*

[4] Phear, *The Aryan Village in India*, 61–62, 182–183, 209–212, 243–245.

village elected by the free choice of the community, and is himself inclined to see in the chiefs who, under the English Government exercised rights over considerable stretches of territory, the original chieftains of clans.[1] In the lively account, which he gives of the settling down of the Vellalee tribe in true village community fashion, we see the chief at the head.[2] Morgan tells us that among Indians of this country, not only did each tribe have a chief but each gens had its sachem, whose office was in the majority of cases hereditary.[3]

We may examine, in somewhat greater detail, two other forms of tribal community, forms which show in their peculiar constitution many points of similarity to the archaic tribal customs in other countries, and which bear an unquestioned kinship to and form a part of all the tribal institutions which lie at the base of comparative study. The systems of Ireland and Wales will furnish materials for the students of the comparative method for all time. Both represent developments of the normal tribal type, and therefore the institutions of each, though peculiarly complicated, can furnish us with evidence of no little value.

The Brehon laws show us Irish tribal civilization in many respects in a less archaic condition than that found in the early Teutonic codes, and cover a period from the Danish invasions to the reign of Elizabeth. But the theoretical system represented in these laws, which probably was nowhere in fact existent in anything like a complete form, lasted down to the beginning of the sixteenth century, when it was suppressed. It always remained a somewhat arbitrary tribal system, for the Irish never formed political communities or had a conception of a state.[4] "The Irish tribe was not in its organiza-

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[1] Maine, *Village Communities*, 154–156.
[2] Maine, *Early History of Inst.*, 71.
[3] Morgan, *Ancient Society*, 71, 114, 153.
[4] *Ancient Laws*, III, lxxix, IV, xiv.

tion an anomalous institution, but simply one example of those village communities which existed among all the early Aryan nations."[1] Within the tribe was the legal "family," or *fine*, which took form under peculiar conditions not easy to understand, but which under other conditions ceased to exist as a *fine*.[2] In relation to the Irish system the tribe has been defined as "an aggregate of individuals, connected by a real or assumed relationship and occupying in separate households a district, which was, at first, in the ancient tribe and family system, the property of the tribe."[3] Here is one element of the village community. But the other element was present also. Each district had its chief, who received his share of the tribe lands; and who had on these lands tenants under distinct obligations to him, in much the same manner as English villeins, although the relation between the chief and the free tribesmen is not very plain. The two elements are therefore: first, the tribal community, in many ways analogous to the village community, each member of which inhabited a dwelling surrounded by a curtilage, to each individual or family of which there was allotted in exclusive ownership other portions of the territory; second, the chief who had his own lands and occupied a position not greatly differing from that of the Basutos chief. The editor of the laws has not inaptly spoken of the legal relation of the chief to the tribe as

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[1] *Ancient Laws*, IV, civ.

[2] The Irish "family" is known by the term *fine*, or better by the term *sept*, corresponding to the *mægth*, *sib*, etc. The *cinel* was the tribe in the full extension of the term; it might at times contain but one "family," when it would be commensurate with the *fine*, or it could contain many *fines* in which case there had taken place a subdivision of the *cinel*, which was the original element. The *tuaith*, territory, was not a mere extent of land, primarily it was the tribe or people, from which it came to mean a tract inhabited by a definite body and regarded with reference to the rights of its occupants. In addition, there seems to have been "those outside" the *feine* grades, variously translated the country people or plebeians.

[3] *Ancient Laws*, IV, lxxviii, civ.

a "presidency."[1] The remainder of the tribal land, the common arable, pasture, meadow and waste was used under certain conditions by the whole tribe.[2] In each territory there existed customary law of such a nature as to bind firmly the whole tribe into a compactly organized unit.[3] That relating to the free tribesmen is too vague to form any very definite conception of their relationship to the chief and the editor says in remarking upon it, "This may be accounted for, if it be remembered that there was no universal form of the *corus flatha* prevailing through the island, as the selection of English customary law known as the common law prevailed

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[1] *Ancient Laws*, III, xxv.

[2] *Ancient Laws*, IV, civ; Compare also *Jour. Ethnol. Soc.*, N. S., II, 344 ff.

[3] First we have the law touching the relations between the chief and his 'daer' stock tenants (*corus flatha*) as follows: "for banquets, for manual labor, for proclamations, for pledges, for regulations and good morals that they may attain to perfect justice." The law adds: "Proper work-service for a hosting (army expedition), for building a dun fort, for a pledge, for a meeting, for avenging, for service of attack, for service of defence, for serving God, for assisting in the work of the Lord and each should render this to his prince [so translated by Dr. O'Donovan, but the word is *flaith* elsewhere rendered "chief" the head of the district as distinguished from the next mentioned], to the tribe-chief [this is glossed, head of the *fine*], to his abbot, to protect his lord in his property, in each service according to God and man, for good custom, for good law, for good counsel, for every lawful profit is legal, every mark of respect which is due to a chief, to remove every inconvenience which annoys his chief."

Second, the laws governing certain matters of land distribution between members of the whole body of tribesmen (*corus fine*). This divides the land among the natural tribesmen and the adopted sons, as well as those whom they have received among them.

Third, the law regulating the relation between members of the whole body of tribesmen (*corus feine*). This included tillage in common, marriage, giving in charge, loan, lending equal goods, purchases, contracts, mutual pledges, attending the sick, distress for 'eric' fine "(The latter was a mutual liability among kinsmen). These three codes are also called *corus tuaith* as covering all the laws of the district. *Ancient Laws*, III, 17–23. The editor says that the services embraced in this list (on p. 23 of the laws), "cannot be confined to those who stood in the relation of 'daer' tenancy to the chiefs; they are obviously the duties which would fall upon all the members of the tribal community." Yet compare III, xxv.

throughout England. Every territory possessed its own *corus flatha* as every manor in France or England its own usages and customs."[1] There is no indication whatever of the frequency or severity of the services. Probably there was no such exactness as on the English manor, even in respect of the tenants of the chief himself. The main point is the fact of a composite tribal unit, the free tribesmen with the chief and his tenants making up the whole unit, as well as the further fact that not only the tenants but the free tribesmen as well were under certain obligations to the chief.[2] There are no definite regulations regarding a popular assembly, yet such must have existed, for in a subsection of the *corus flatha* the tribesmen are under obligations regarding the making of good customary law for the district.[3]

In the discussion of the Welsh system we may be more brief. The Welsh laws show, as do the Irish, traces of Roman and Christian influence, while they are also marked with traces of English contact; but it is not difficult to see that they contain evidences of the customs and usages of the primitive period.[4] Their value is, therefore, unquestioned, although they present to us the Cymric people in a more advanced state of organization than the Irish tribes of the Brehon laws.[5] The component parts of the Welsh tribal community, though practically identical with those present in the Irish *tuaith*, are more complex, showing, as would be expected, important differences in the details of its organization. The territorial unit was the *cantrev* corresponding to the *tuaith*. This *cantrev* was, however, divided for convenience into *cwmmwds* or neighborhoods, which were each similar to the *cantrev*, so that it is proper to take the *cwmmwd* as the territorial unit, although it seems to have been formed

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[1] *Ancient Laws*, III, xlvii.
[2] *Ibid.*, III, xlix.
[3] *Ancient Laws*, III, xxv, 21, 23.
[4] Lewis, *Ancient Laws of Wales*, preface by Lloyd.
[5] Skene, *Celtic Scotland*, III, 198.

after the *cantrev*. Within the *cantrev* were an indefinite number of kindred organizations, families of seven generations, each of which was called a *cenedl*, and each of which had a kindred chief called the *pencenedl*. Within the *cenedl*, which Maine says corresponded to the Irish *sept* or more accurately *fine*,[1] was the *trev* or joint family of four generations, that is, of three descents, and within this the *gwely*, the household, the simplest element of all. In the *cantrev* was the *brenhin*, the chief or supreme leader. Lewis says, "He was in a position (like the *pencenedl* to his kindred) of 'paternity' to the community, who were in 'fraternity' to one another."[2] In the collection of Triads, known as the "Triads of the Social State," the term *gwlad* is employed with the same signification as *cantrev*, meaning the district or territory occupied by the two elements, the free tribesmen and the chief. In these Triads there is clearly brought out the unity of the *gwlad*, and we see that not only is this tribal unit bound together by close ties, but that it is a more or less independent economic unit, a compact composite organization, made up of the chief and the kindred, with many common interests, social, political and economic. The free tribesmen had land, the privileges of freemen, such as right of bearing arms, the possession of an outfit, and a share in the common interests of the community.[3]

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[1] *Early Hist. of Instit.*, 187.

[2] Lewis, *Ancient Laws of Wales*, 105; *Ancient Laws*, Bk. XIII, ch. II, 26; *Cf.* Seebohm, *Village Community*, 237.

[3] Of the many ties mentioned the following belong most pertinently to our subject: 1. The three mutual bonds of a country (*gwlad*) are relatives (*ceraint*), privileges (*breiniau*) and languages (*iaith*); or, as elsewhere put, paternity (*tadoldeb*), filiation (*maboldeb*) and fraternity (*brawdoldeb*). The first belongs to the office of chief, the second belongs to the community, the third to the whole body, chief and kindred alike—§ 26, 44.

2. The three ties of a social organization, without which there can be neither country (*gwlad*) or community, are mutual protection (*cymnawdd*), co-tillage (*cyvar*) and equal judicature (*chyvraith*)—§ 45.

3. The three things which destroy such an organization and cause confusion in the regulation of a country and kindred (*gwlad a cenedl*) are oppressive privileges, unjust administration of the law, and unconcern (*gwallymarbod*), that is, non-co-operation—§ 31.

The waste land seems to have been the property of the country and kindred, and within it each kindred had the right to gather building materials, to hunt and to gather mast;[1] upon it they could not build, nor could they plough it or make a clearing without the permission of the chief, because every wild and waste belonged to the country and kindred (*gwlad a cenedl*) in common.[2] It is important to note that the waste is said[3] to belong to the chief (*brenhin*), but it belonged to him only as administrator, not as owner.[4] From this we see clearly that the Welsh *gwlad* or *cantrev*, like the Irish *tuaith*, was the territory of a free tribal community containing separate houses, each within its croft, with co-tillage and common waste.

In Scotland a similar state of things existed. It is a fact of no little importance that the *tuaith*, with its head called *toisech* instead of *flathe*, became, under the influence of a gradual advance of Saxon civilization and the application of Saxon nomenclature to what were found to be analogous institutions, the *thanagium* or thanage with its head, the thane; showing that the manorial district was considered as analogous to the tribal territory, and the lord of the manor to the chief of that territory.[5]

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4. The original privileges of every native free Welshman are five *erws*, (the unit of land measure, varying in size from less than half to nearly if not quite an English rood, *i. e.* 10,400 square feet), the privilege of bearing arms and the privilege of law under the *pencenedl*—§ 65.

5. The peculiar properties of the individual in a *gwlad*, are a house (*ty*), a cattle fold (*buarth*) and a corn yard (*ydarth*)—§ 51.

6. The peculiar properties of one man, which cannot be taken away from him under any circumstances are his wife, his children and his outfit (dress, arms and tools)—§ 53.

7. Three things common to a country and a kindred: mast-wood, hunting and an iron mine—§ 49; *Ancient Laws*, 637–645.

[1] *Ancient Laws*, 660, § 142. [2] *Ibid.*, 655, § 101.

[3] *Ibid.*, 447, § 69; 768, § 5. [4] Lewis, *Ancient Laws of Wales*, 67.

[5] Skene, *Celtic Scotland*, III, 216–217, 244–245, Ch. VII. Mr. Skene says that in this instance we find genuine tradition of the tribal organization which preceded the Saxon and feudal form, p. 216.

It would be possible to gather further evidence to show the presence of the double element, chief and free tribesmen existing in all tribal communities. The tribal community was composite—that is, it was not made up of a voluntary association of freemen, but was constructed according to principles which the processes of development had laid down and which time alone could render inoperative. In part an organization founded on blood relationship, it was already united by other bonds, rendered necessary for the security of sustenance, safety and happiness; but it contained as a necessary part of itself the principle of headship, leadership or chieftainship, both of the tribe itself, where in the pure tribal community, it was most active, corresponding to that of the kingship in the petty state,[1] and also of the smaller unit, the *cenedl, fine, mægth, sib,* where it was less active, remaining so in all tribal communities, because these divisions, where they existed in definite form within the tribe, were always overshadowed by the superior importance of the greater whole.

It is a more difficult question which meets the investigator when an attempt is made to apply this principle in passing from that stage of settled life, within which there has been no advance out of the tribal form, to that stage wherein there has taken place a political development which has given rise to the modern state. In this particular it must be confessed that many older writers, and some of more recent date, have omitted an important fact in relation to the village community. It did not begin as a ready-made unit; it was the outcome of previous conditions, and those conditions were tribal or subtribal. For while fully recognizing the superior qualities and capacities of those peoples that, in passing from the cognate and personal tie to the territorial, have thrown off the tribal form, we are to keep in mind the fact that all those nations, that have attained greatness in the world's history have at

[1] Seebohm, *Village Community,* 237.

some time been in that same tribal condition before taking on political form. This fact will be universally acknowledged.[1]

There is a current view regarding this development—a widely accepted theory which seeks, by a double process, to explain the origin of the state. The one part we may call the patriarchal or biological theory, the theory of continuous growth and expansion from the smallest unit to the largest. This assumes that the patriarchal family was the original protoplasm of political society. The broadening of the family and the enlarged kindred group gave the clan; from the clan in a similar manner came the tribe.[2] The second part of this theory, as represented by Mr. Freeman, presupposes the existence of tribal or clan units in village form; that is, it takes the kindred group after settlement has been completed and then constructs the state by a federative process; a union of villages forms the city as in Greece, or of marks the shire as in England, while a union of shires forms the kingdom.[3] This second step does not conflict with the first; it simply supplements it. It takes the unit at a certain stage in its growth, and, by the introduction of a new principle, makes possible a more advanced constitutional life.

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[1] "Nor was the tenacity of the tribal system more remarkable than its universality. As an economic stage in a people's growth, it seems to be well-nigh universal. It is confined to no race, to no continent, and to no quarter of the globe. Almost every people in historic or prehistoric times have passed or is passing through its stages." Seebohm, *Village Community*, 244. "Both the sovereignty of the chief and the ownership of land by the family or tribe were in most of Western Europe passed through the crucible of feudalism." Maine, *Early Hist. of Inst.*, 120; Vinogradoff, *Villainage in England*, 131.

[2] "Aus der Familie erwachsen Volk und Staat." Waitz, *Verf. Gesch.*, I, 53. "der Stamm ist nur die Vereinigung verschiedener Familien, die sich aus einander entwickelt oder an einander angeschlossen haben." *Ibid.*, I, 54.

[3] Some time before the controversy between Maine and McLennan and their scores of followers began, Mr. Henry Adams had shown himself sceptical regarding the patriarchal theory, and to Mr. Freeman's federative principle as applied to the union of marks into shires in England had opposed "the most decided negative." *Essays in Anglo-Saxon Law*, 1, 2, 12.

This view, though still strong and supported by able authorities, seems to be breaking down in the presence of a younger theory of a diametrically opposite character, which denies that the state grew out of the family, and affirms that the tribe, not the family, was the political unit. It asserts that within the tribe families existed, not as units in themselves determining the status of the individual, but rather as parts of the whole, and that membership in the tribe defined the position of both family and individual. It seeks to show that the precedence of the family is both a logical and historical impossibility; that the family, as an ethical as well as a physical institution, can only exist connected with and protected by some larger organization, in other words by a community.[1] The theory would further state that the clan and the family, as recognized ethnical units, were later formations into which the tribe eventually resolved itself.[2] This view seems to be the outcome of a better understanding of the development of humanity and of human institutions. It explains much which the patriarchal theory does not explain. It is logically and historically possible, more natural and comprehensible, and it does not lead to such erroneous theories of the elements of the modern state as does the other. The institutions of Rome gave Sir Henry Maine his first concep-

[1] "Die landläufige Anschauung, welche die Familie logisch und historisch dem Staate vorangehen lässt, ist falsch. Denn sie fasst die Familie ja nicht als physische Gemeinschaft von Mann, Weib und Kind, sondern als eine ethische Institution; aus der patriarchalischen Familie in der das Haupt über Söhne und Enkel und über die Schaaren der Knechte gebietet, lässt sie durch den Zussammentritt meherer zu einem Ganzen den Staat hervorgehen. Eine solche Familie aber kann nur existiren, wenn sie nach aussen und innen anerkannt ist, wenn sie als geheiligte und unverletzliche Institution gilt und ein Element eines grösseren, sie respectirenden und schützenden Verbandes ist; sie setzt also das Bestehen staatlicher Gemeinschaft voraus." Meyer, *Geschichte d. Alterthums*, 2–3.

[2] Morgan, in *Systems of Consanguinity* and *Ancient Society*, presented one form of this view. McLennan, in *Studies in Ancient History* (Chap. IX), presented it in a different form. It has hardly yet been satisfactorily worked out. *Cf.* Gomme, *V. C.*, 39.

tion of the patriarchal theory; but these institutions show us, comparatively speaking, an advanced stage of primitive society. The tribe was merged in the state, the curia and gens, still living, were no longer of juridical consequence, although we have clear traces of their earlier importance.[1] Among those people that have retained the tribal form of life, the patriarchal family is not found in anything like the completeness seen at Rome. Gaius tells us that the Roman system was peculiar to Rome, but Gaius is assumed not to have known better.[2] Among the Teutonic peoples the sept or clan had become active, but always subordinate to the tribe which was the primary unit, the basis of the political and judicial organization. The settling of peoples upon the soil of Europe was by tribes,[3] subdivided into clans, and sub-clans, which probably formed the basis of the village community. Of the family we know little, certainly it had attained to no such juridical and political importance as at Rome; indeed, we have no clear evidence that the patriarchal family ever existed in any sense at all on Teutonic soil. If we accept the older theory, then its absence is explained by the legitimate supposition that it gradually lost its original unity and was overshadowed by the local ties, which gained the mastery in the

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[1] This is seen in *ingenuus*, as defining the status of a free citizen. In the succession first to the *adgnatus proximus*, then to the *gentes* (*gentiles familiam habento*) in default of a *suus heres*. In the custody of an idiot and his property, first the agnate then a member of the *gens*. In the care which the *gens* assumed of watching over the *pater familias* and of exacting penalties in case of a breach of certain restrictions upon his *jus nexis vitaeque*.

[2] Quod jus (patria potestas) proprium civium Romanorum est. Fere enim nulli alii sunt homines, qui talem in filios suos habent potestatem, qualem nos habemus. *Gaii Institutiones*, I, § 55. *Cf.* Cæsar, *De bello Gallico*, VI, 19, for this law as found among the Gauls, and Paul's Epistle (IV, 1) for evidence of the law among the Galatians, whom Gaius mentions.

[3] "Congeries of septs." Cunningham, *Growth Eng. Ind. and Com.*, 26. "Nach zusammenhaltenden Stämmen und Geschlechtern, etwa wie heute noch in Afrika jeder Stamm mit seinem Scheik an der Spitze in einem Dorfe beisammen wohnt." Maurer, *Einleitung*, 4. "The settlement of Europe was by clans." Hearn, *Aryan Household*, 190.

political growth of the tribe-state.[1] If we take the other view, then the transition was from tribe to clan and kindred community and from these to the modern family, without passing through the patriarchal stage. Therefore its absence in the records of early times will be accounted for according to the theory which may be adopted.

In turning to the writings of Cæsar and Tacitus, we find ourselves treading on old and familiar ground. In these accounts we have clear indications of the breaking down of the tribal organizations, as they take on political and constitutional form. This fact at once takes them out of the category of non-Aryan and Celtic evidence and places them in a group by themselves—a group which would contain evidence from the laws of Greece and Rome, from the Vedic poems and the Gathas, Yasnas and Vendidad of the east-Iranian people. In the development of political institutions chronology has no place. The constitutional life seen dimly in the Rig-Veda represents society at a stage similar to that seen in Tacitus.[2] The laws of the Twelve Tables and the customs fossilized in Gaius show us society in advance of either. We cannot, of course, expect to find among a people advancing toward constitutional life anything bearing an exact likeness to the composite organism that we have observed in the tribal community. Our Teutonic forefathers were developing instincts of government and a spirit of individualism not found among non-Teutonic peoples. Yet a question naturally arises, and we see no way of avoiding it, that calls for an answer of some kind, without regard to either of the theories which we have presented. If the Germanic peoples passed through the tribal stage before entering upon the period of their political development, and if the tribal customs and forms of life were so tenacious as we know them to have been elsewhere, where are the evidences in the records of these same Germanic peoples of the institutions which were a part

[1] Waitz, *V. G.*, I, 55.

[2] Zimmer, *Altindisches Leben*, 158.

of their tribal organization? It may be that this question cannot be answered, and yet a tentative solution of the problem may be ventured. As the original unit, the tribe, began to fix itself more firmly to the soil and to take on a constitutional form, the old kindred tie was narrowed. Although we fully recognize the danger of connecting in any way the accounts of the Latin historians, it is at least suggestive that Cæsar mentions the *gentes* and *cognationes* while Tacitus after a lapse of one hundred and fifty years, notices no longer the *gentes*, but *familiae* and *propinquitates*. Is this the merely accidental use of words or is it the outcome of the fact, which is generally assumed to be true, that Tacitus described a more settled body of people? If so, it seems reasonable to presume that the old tribal tie has already been displaced by the territorial and political tie and that only in the kindred groups did it remain with anything like the tenacity and form with which the old tribe had been bound together and according to which the old tribe had been constructed. It follows from this that when the clan, or some subdivision of the clan, settled down upon the soil and formed the village community, there would be brought into sharper relief the factor of chieftainship, already an organic part of the clan and sub-clan organization.[1] So tenacious an element would tend to be strengthened rather than weakened by the transition. The attachment to the soil would lead to a more positive definition of the relation of an already existing head to the clan community, an elevation in rank, a prominence in status such as would be given by the double influence of land and the more important position assumed by the kindred group. As a result this headship would in time tend more and more to resemble, first, the headship which the chief of the tribe bore to his tribal

[1] Each of these bodies (Household, Clan and State) had its chief whether he was hereditary or elective; each had its council of advice, each had its children, its slaves, its freedmen." Hearn, *Aryan Household*, 125.

community, and, second, the political headship which, through not dissimilar though more complicated causes, the king obtained in relation to the state.[1] We see in Cæsar the important elements, the *gens* or clan and *cognatio*, to whom land was distributed by the magistrates and chiefs, but there is no clear evidence of the chieftain; the *principes* of Cæsar can be almost anything that we are inclined to make them. The word is nowhere used with any fixedness of meaning; the *principes* are simply leaders, leading men, whether of a *civitas* or a tribe, a *regio* or a *pagus*, a *factio*[2] or a body of young men. The evidence is only negative; there seems to be nothing to contradict the supposition that among such chiefs there may be included those who were the heads or chiefs of kindred groups. As Cæsar uses *gens* to signify the tribe as well as the clan, so he may use *princeps* to mean the head of the clan and kindred as well as the tribal group.[3] It is not without good reason that Mr. Seebohm has seen in this description a stage of tribal development similar to that of the Welsh and Irish laws. The Suevi were a *gens* in the larger sense, within which the clan and kindred group, the *gens* in the narrower sense, and the *cognatio*, like the Irish *fine*, within the Irish tribe, were already defined.[4]

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[1] Freeman, *Norman Conquest*, V, 461.

[2] *Cf.* Fustel de Coulanges, *Origines du système féodal*, 197.

[3] Principes civitatis, *B. G.*, VII, 38, 2; princeps Lemovicum, VII, 88, 4; Nerviorum, V, 41, 1; principes regionum atque pagorum, VI, 23, 5; principes populi Romani, I, 44, 12; factionum principes, VI, 11, 3; adulescentium principes, VII, 37, 1.

[4] Seebohm, *V. C.*, 336. Two forms of criticism are to be applied to these accounts. First, the narratives of Cæsar and Tacitus describe different portions of the German people, living under different conditions and circumstances, with many probable omissions, and many generalizations based on uncertain data. Second, it is to be noted that Roman terms, which it is dangerous to interpret too strictly, are employed. The precision of the Roman nomenclature makes it impossible that we should feel confidence in a literal rendering of the text. *Jus dico* is the phrase used for the declaring of the law by these chiefs. This expression technically applies only to the prætorian and ædilian jurisdiction. We cannot say with positiveness,

With Tacitus we have more definiteness because there seems to be a closer association of the tribe with the land. Instead of *cognatio*, however, we have kinship expressed by *familiae et propinquitates*, of which the first must have included not only the descendants but the collaterals, the affranchised and slaves,[1] in other words, an enlarged kindred group cognate not agnate, while the *propinquitates* may refer to neighborhood as the result of settled life or it may be another phrase expressing the fact of kinship, referring, perhaps, more particularly to the clan group, inasmuch as it was the *propinquitates* who received the wergeld.[2] This tie of kindred was the basis of the military life, for the infantry which formed the main strength of their fighting force was formed by clans, who fought together, lived adjacent to each other, held their lands in a periodically shifting field system and inhabited the *vici*, mentioned in Tacitus' well-known paragraph.[3] It is a more difficult question to determine whether any part of Tacitus' description corresponds to the second part of the composite element. It certainly is not the *princeps*, mentioned as the leader of the *comitatus*, but there are two other possibilities. Among the leaders at the assembly are those who were listened to because of age, birth, military valor or eloquence;[4] these may have been in one sense *principes*, that is, chiefs, and there may have been included among them such as were the heads

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although it has the strong support of Bishop Stubbs, that the *princeps* of Tacitus and the *princeps* of Cæsar were the same. The latter has no definite meaning, while the former were certainly not a part of a kindred group.

[1] Glasson, *Hist. du droit et des inst. de la France*, II, 42.

[2] *Germ.*, c. 12. *Cf.* c. 19. The unity and organization of the *familia* is clearly brought out by Fustel de Coulanges in his chapter *De la constitution de la famille; Recherches*, 219–232.

[3] Fustel de Coulanges is even tempted to think that the assembly was formed in a similar way; the people presenting themselves by *familiae*. Yet this, as he acknowledges, may be going too far; (*Recherches*, 220, note 2), though the fact that the early assembly was in reality the army assembled for legislative purposes lends color to the supposition.

[4] *Germ.*, c. 11.

of clans. There was also at the head of each *familia*, a *pater familias*,[1] not in the Roman sense, even though Tacitus employed the Roman phrase for want of one more accurate, but a chief, a kindred head, who was rather an administrator general than an absolute chief. This kindred head whose presence we might justify on *a priori* grounds only vaguely appears. There is nothing said by Tacitus to contradict such a surmise. It is therefore possible to put a somewhat new construction upon the two varieties of habitation about which there has been endless dispute. The question is an open one, to be settled rather through a general understanding of the development of primitive institutions, than by an arbitrary construction of the words which Tacitus uses. Waitz says that Tacitus, noticing both varieties, did not attempt to draw sharp lines between them. He only saw that both were opposed to the custom of Rome, and this general difference he points out without attempting to go into particulars.[2] Recent interpretation has been quite in one direction. The dwellers apart and scattered by spring, plain or grove were not the same as the inhabitants of the *vicus*. But Mr. Seebohm's view that free tribesmen alone inhabited the isolated houses is improbable. Professor Allen's is better, that free tribesmen lived both in isolated homesteads and *vici*.[3] Yet it seems hardly necessary to limit the inhabitants of the first to the *principes*, who may have had separate homesteads, where they lived surrounded by their *comitatus*.

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[1] *Germ.*, c. 10. Glasson, *Hist. du droit*, 42–43.

[2] Waitz, *V. G.*, I, 115.

[3] *Primitive Democracy of the Germans.* Mem. Vol. 221–222. It is assuming a good deal to say as do Seebohm and Ross that these *vici* were inhabited by a slave class, the servile dependents of those who lived in the isolated homesteads. To thus restrict the homes of the free tribesmen, who made up the infantry of the army and the members of the tribal assembly to the single estates by wood, plain and stream would require that we limit the numbers of such free tribesmen in a disproportionate degree. There could not have been such disparity in the relative strength of the free tribesmen and the slave class. Professor Allen has discussed and criticised successfully this view in the reference above given.

It would seem to be a reasonable conclusion to suppose that the heads of kindred groups lived in a manner apart, in a more pretentious dwelling, an isolated homestead in the near neighborhood of the kindred. Schrader says that "we ought not to credit the primeval period with only one type of house structure. It is conceivable that the round hut was the dwelling of the ordinary man, while more spacious block houses were built for the kings and chief men."[1] The picture of Tacitus is very indefinite and it may equally well conform to the view above presented as to any of the others, which have been ably and ingeniously supported.[2] It is not necessary to believe that every *vicus* recognized a head, or to put it differently that every kindred group had its chief. It is equally unobjectionable to suppose that the slaves were in large part a conquered race, a previous Celtic population, possessed by members of the kindred group as well as the chief. Upon these points Tacitus is wholly inexplicit.

It will be seen that this view simply modifies the old theory of the village community by introducing a closer bond of kinship and the element of chieftainship, and by reducing the free tribesmen to a moral, social and political condition more in accord with the habits of a people just emerging

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[1] Schrader, *Prehistoric Antiquities of the Aryan Peoples*, 346, also Ch. XI. Tacitus speaks of the *materia* as *informi*, perhaps referring to the use of unhewn branches and trunks for posts and shafts.

[2] There has been a general recognition of the possible presence in the account of Tacitus of the elements of the manor, at least in part. Stubbs with his usual breadth and insight had already expressed his belief in a composite organism containing the germs of the mark, the village and the manor (*C. H.* I, 36–37). Fustel de Coulanges says: "On a pu voir des communautés de guerriers alternant entre eux pour la culture et pour la guerre. On a pu voir des communautés des petits propriétaires associés pour la culture et peut-être aussi pour la défense mutuelle. Il a pu exister des communautés volontaires, peut-être même de communautés obligatoires. Mais il existait, en même temps, ces propriétés isolées auxquelles Tacite fait une allusion si claire. Et il pouvait même y avoir de grand propriétés, cultivées par ces serfs ruraux dont l'historien décrit si nettement la condition. Tout cela a pu se trouver à la fois dans la Germanie." *Recherches*, 311.

from a state of barbarism. As to the question of a common ownership of land, such may have existed equally well under the composite form in the tribal community or the later kindred community, where common lands and co-tillage were characteristic of the free members. In this particular a mistake in method has been made, an error in the point of view. Maurer has expended his powers of research upon only one possible source of material. We cannot even under ordinary circumstances feel sure of the results when the vantage point is a period from five to ten centuries later, and in this case the argument is based upon a hypothetical premise which not even the boldest of the supporters of the village community theory would say was more than conjectural. This assumption of the *markgenossenschaft* has had its effect upon Maurer's whole work, and the error seems to lie in the attempt to force into the earlier period the village association of the eleventh and twelfth centuries. It is a more logical method, as well as more truly historical, to go back to tribal times—to seek for suggestions from known tribal communities, in order to understand the institutional development which led to the working out of the village community. Many of the earlier elements may have become wholly changed or more or less transformed so many centuries later. Careful historical criticism shows that there is no authority for the German Mark as a group of cultivators organized as a free village community, in the sense in which Maurer used this phrase, before the thirteenth century, for, during the earlier period, it seems to be conclusively proven, that "mark" has no other meaning than boundary.[1] There is no mention of the Swiss

[1] Fustel de Coulanges, *Recherches*, 322–323; *Le problème des origines de la propriété foncière* in *Rev. d. quest. hist.*, 1889, 350–391. In this particular M. Fustel's criticism of Maurer and Laveleye seems justified. The criticism of Mommsen on the question of common ownership is by no means so conclusive, while Jubainville has already answered the attack upon his views regarding Gaul in *Recherches sur l'origine de la propriété foncière; période celtique et période romaine.* On the "mark" in England compare Earle, *Land Charters*, 454–456; Pollock, *Oxford Lectures*, 121, 124.

open air assembly before the thirteenth century, and none of the Russian *mir* before the sixteenth.[1] For England there is no other authority than that based on survival and analogy. On the other hand, primitive Aryan history is full of traces of chieftainship, of hereditary chieftainship.[2] There is a vast difference between the headman, who holds simply by the suffrages of his fellow tribesmen, a condition which is probably largely imaginative, and the chieftain, who, as an original element within the kindred group, whether tribe or clan, formed the basis of modern aristocracy and kingship. The position of supremacy, whether seen at the head of the tribe or the clan, based upon blood and war leadership, did in all probability take on a political form, when, under economic influences, it had fastened itself to the soil. The head of the tribe or of a federation of tribes, became the king of the state. The village community, the outgrowth of a sub-tribal community, which had a subordinate chieftain of its own, who probably led his kinsmen in war, had for its basis, therefore, a composite organization consisting of the chieftain, and the kindred group of free clansmen. Among non-Aryans this community would appear to have remained in its purest form wherever there has not been—as has been, however, often the case—the formation of a chieftain caste, thus bringing about a separation between the tribal elements. Among the Celtic portion of the Aryan stock there exist well-known points of difference from their Teutonic brethren. The ties which held the Celtic tribe together were always personal rather than political. The Celt never advanced by his own natural development out of the tribal state.

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[1] Kovalevsky, *Origin and Growth of the Village Community in Russia*, in *Archæological Review*, I, 266. Also *Modern Customs and Ancient Laws of Russia*. In this latter work Kovalevsky shows himself to be an uncompromising opponent of Seebohm and Fustel de Coulanges and an unqualified admirer of Maine, Maurer and Laveleye. So also Vinogradoff, in the Introduction to *Villainage in England*, though his attitude is a much more sympathetic and fraternal one.

[2] Hearn, *Aryan Household*, 193–195, 198.

The village communities of Scotland and the Hebrides were largely the result of legislative action subsequent to the sixteenth century.[1] Then, too, the development of the original tribal assembly shows important points of distinction. "Popular assemblies dealing with public affairs existed among the Gauls in the time of Cæsar, and took, in the case of the Helvetii, cognizance of crimes against the state, but they were incapable of asserting their rights against a chief supported by a numerous following. The Celtic national tendency was developed still further in Ireland, when the original tribal assembly was altogether superseded by the retainers of the chief. On the other hand, the Scandinavian and Teutonic nations retained and developed the public meetings of the original tribe. To the retention or loss of this essential element of an autonomous tribe community, the difference of the fortunes of the Celtic and Teutonic races is mainly referable."[2] Here is a recognition of the fact, already stated, that the Teutonic tribes were originally in a condition similar to the tribal communities of Wales and Ireland, and, we may add, similar to the tribal systems among non-Aryans. For, however positive may be the opinion that the language of the Aryan speaking races finds no corresponding roots among non-Aryan peoples,[3] it is nevertheless conclusively established that in forms of life and institutions such limitation is a serious error. Institutionally speaking, the Aryan speaking races may be related to peoples who philologically show no connection whatever. It is this

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[1] Skene, *Celtic Scotland*, III, 368.

[2] *Ancient Laws of Ireland*, III, xxvi.

[3] Note the unsparingly severe criticism which the work of Carl Abels, the so-called apostle of the new philology, has received at the hands of philologists. His study rests upon the supposed relationship of Aryan to non-Aryan tongues. For us, one of his statements is of interest. *Tun* is not absolutely an Aryan expression; it is widely dispersed, as seen in root forms in the language of savage tribes, such as *tan, tuni, idon, tana, tanne, dan, odane, teng*, used as roots for "town" and "house." The comparative philologists, however, absolutely reject the possibility of such relationship.

broadening of the field of comparative study which has given new zest to the examination of many unsolved problems.

Now that we have reached conclusions that are at least approximately definite we may turn our attention more directly to Britain. In the examination which follows, it will be necessary to remember that constitutional growth and centralization do not presuppose local uniformity, and that the local conditions are not everywhere the same, cannot be everywhere traced to the same causes, or be the result of like influences.

It is generally agreed that Tacitus' field of observation was limited to the West Germans,[1] so that the description of the composite character of the local group will apply with even greater force to those people who had come still less into contact with the Romans. We are not here concerned with the controversy regarding the locality whence the conquerers of Britain came, although it is true that Mr. Seebohm has thrown down the gauntlet to the upholders of the North German theory. It is of considerable importance to determine the state of civilization in which our Saxon ancestors were at the time of the conquest; to know whether they were strongly impregnated with the customs that had crossed the southern boundaries and were Romanizing the Germans of the upper country; or whether they conquered Britain as the representatives of that civilization which Tacitus describes, and as the ancestors of the Rome-hating people whom Charles the Great subdued. A possible continental influence had hardly been thought of before Mr. Seebohm wrote, for even Mr. Coote

[1] Inama-Sternegg, *Deutsche Wirtschaftgeschichte*, 10. Wietersheim, *Vorgeschichte*, 73. Mr. Seebohm would still further limit the description to the "Suevic tribes hovering round the *limes* of the provinces." *V. C.*, 349. Fustel de Coulanges is positive in his limitation of the scope of Tacitus' account, and declares that the extension of that account to all the German tribes would be wholly misleading. We may feel sure, however, that the other Germans were politically no further advanced than those whom Tacitus observed.

considered the conquerers to be mere barbarians, incapacitated for anything but destruction, and only saved from the disastrous results of this incapacity by the conservative energy of the Romans in Britain.[1] Mr. Seebohm's argument is mainly an economic one and the proof hardly seems to be conclusive. Until further evidence be brought to support the South German origin of the Angles, besides such as is based upon the frequency of the 'heim,' the identity of the three field system, the extent of the custom of junior right, and the close parallel between the Roman *villa* and the Saxon manor, which latter really begs the question, great weight will continue to be laid upon the old facts. The description of Tacitus is not much in keeping with a Romanized body of Germans. There did not take place a decided movement in the Völkerwanderung from the south northward, always north to south, east to west. Those who fell under the Roman influence originated no part of the great movement and certainly cannot fulfil all the warlike conditions which history demands of the invaders of Britain. It is above all improbable that people who had already tasted the comforts of the Roman civilization, set in motion like the other tribes by pressure of population, hunger and the movement of those about them, already changing their habits through the influence of the Roman policy, and of necessity wholly unused to navigation, should have deliberately moved northward away from the land-temptations of the south and west, and have put to sea in the conquest of a distant island. The pressure of movement was quite in the other direction, and we can but demand that what the chroniclers relate of the conquest of Britain be fulfilled by a people used to the sea, warriors and plunderers by nature and circumstance, uninfluenced by Roman ideas. It is far from improbable that the remains of a settlement of 'laeti' in Britain before the conquest may have continued in Kent, but this must have been local for their numbers, if this was their

[1] Coote, *Romans of Britain*, 15.

origin, as is doubtful were few, and the 'laeti' themselves merely a remnant. It may be that they were semi-servile tenants in the time of Aethelbirht; but, inasmuch as we know almost nothing about them, all conclusions built upon their presence must be wholly conjectural.[1] It is just here, in taking the step from the continent to Britain, that Mr. Seebohm's argument fails, for he gives no proof of identity between the continental and British manorial systems beyond the probability that it was so, a probability which it must be confessed grows very slight when confronted with a period of 600 years with nothing to support it.

Before examining the character of the conquest of Britain, it is necessary to know something about the condition of that land at the time of the entrance of the Saxon invaders. It is an erroneous conception, and one fruitful of error, to suppose that Britain was racially in a uniform condition. From the Saxon shore to the Clyde, and from the Wash to the Welsh marches, there were varying grades of racial influence, and, naturally, the results of these variations were not everywhere the same. No one, since Mr. Kemble advanced the universal Mark theory, has dared advocate uniformity, except Mr. Coote, who, with considerable positiveness, believed that all Britain was laid out on the exact lines of the Roman agrimensorial system, symmetrically and completely in every part.[2]

Without going further back than the period just preceding the Roman conquest, the first question which arises and about which much debate has turned is whether the Belgae were a Germanic or a Celtic people. The former view, supported by statements in Cæsar and Tacitus, has been commonly accepted and has been made the foundation for considerable discussion. Palgrave early advanced it, declaring that the basis of the

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[1] Seebohm, *V. C.*, 406–407.

[2] *Romans of Britain*, 53–115. Pearson, *Hist. of England*, though in sympathy with the Roman theory, cannot accept this.

Anglo-Saxon was Belgic.[1] Latham followed—not with great positiveness, however,[2] while Coote declared that the Belgae of Gaul were Germanic, spoke a Platt-Deutsch, and he lays stress upon the fact that in the laws of Kent there is found a Jute people speaking a clearly Germanic, but not a Scandinavian language.[3] But Dr. Beddoe shows that the West Jutland dialect has its points of close resemblance to current English, and finds no difficulty in accepting the old view. He concludes that the Belgae, though there may have been some infusion of German blood, "were a Celtic speaking, and to some extent in blood and physique, a Celtic or Celtiberian people in Gaul, Asia and Britain."[4] Therefore, at the time of the conquest the natives of Britain probably consisted mainly of several strata, unequally distributed, of Celtic speaking people. Some of the layers were Gallic in speech, some Cymric, while the most recent layers were Belgic, and may have contained some portion or coloring of Germanic blood, but no Germans, recognizable as such by speech as well as by physique, had as yet entered Britain.[5]

The extent of the Roman conquest, as well as its completeness, has been similarly disputed. Coote, Wright,[6] Scarth[7] and Seebohm are inclined to magnify the effects of the conquest; Green to minimize it.[8] We may safely incline toward the view of the latter, though not going so far as Bishop Whitaker, who would see in the Romans merely educators of autonomous British tribes.[9] There can be no hesitation in saying that Britain was in a different condition from any of the continental provinces; that it was, as Green thinks, more like a military colony than a completely Romanized country. In fact, whatever may be argued from the generally

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[1] Palgrave, *Engl. Common.*, I, 27-28. *Cf.* Glasson, *Hist. du droit*, I, 31.
[2] Latham, *Engl. Language*, 256–257.
[3] *Romans of Britain*, 29–30.
[4] *Races of Britain*, 23, 42.
[5] *Ibid.*, 29.
[6] *Celt, Roman and Saxon.*
[7] *Roman Britain.*
[8] *Making of England.*
[9] Whitaker, *Hist. of Manchester*, I, Ch. viii.

thorough character of Roman colonization, it must be remembered that the population of Italy, after 100 A. D., and especially after 200 A. D., when the Asiatic cholera had done its work, was rapidly on the decrease, and it is doubtful if a sufficient colonizing body could have been spared from Italy to Romanize the whole province. We know that there was no homogeneous body of soldiery in Britain. The legions contained Syrians, Cilicians, Spaniards, Moors, Thracians, Dalmatians, Frisians, etc., and this fact seems to be a clear proof of the growing paucity of Roman citizens in Italy and the provinces.[1] Furthermore, Britain was not a country favorable either to the immigration of peoples from the south and east or to a rapid increase among those who took up their abode there,[2] and attention may rightly be called to the fact that Armorica, the land of the Veneti, though equally with Britain covered with Roman villas and roads, preserved after a few hundred years scarcely a trace of the blood, language, polity or religion of old Rome. The nature of the Roman occupation was military and commercial rather than social and agricultural. Its roads stretched like a great network, covering the face of England, Wales and Scotland to Perth. Four royal highways in Britain formed the great trunk lines of the south and centre, while three meridional highways carried the traveller, the soldier or the merchant to the upper wall. Running east and west were transverse roads, forming points of

[1] *Notitia Imperii*, in *Mon. Hist. Brit.*, xxiii–xxiv.

[2] "[This point] is of some importance in explaining the disappearance in most cases of all traces of the blood of these colonists, a disappearance which may also depend, in part, on the heterogeneous character of the Romanized population, taken *en masse*, which would render its potency in breeding very inferior to that of a comparatively uniform and pure bred race like the British rural population, among which it was dispersed." Beddoe, *Races of Britain*, 32. "The care with which every villa is furnished with its elaborate system of hot-air flues, shows that the climate of Britain was as intolerable to the Roman provincials as that of India, in spite of punkas and verandas, is to the English civilian or the English planters." Green, *Making of England*, 6–7.

intersection, where great cities sprang up as junctions, where centred the smaller lines communicating with distant and smaller towns. Along these roads villas and the houses of Romanized Britons were built; but only in Kent, Essex, in the valley of the Severn and in the territory around the wall of Hadrian does there appear to have been thorough Romanization. Wales, though heavily overlaid with roads, seems to have been but little effected; Cornwall and Devon not much more.[1] As in the Saxon days, when the centres of influence were the monasteries and when the intermediate country was little enlightened, so in Roman days the civilization of the Empire did not penetrate into the wolds and fens and to the hill tops, where Britons still remained with their own customs and modes of life. The inhabitants of the rural districts, except in the immediate neighborhood of the great centres, were largely left to pursue their tribal agriculture. That Roman remains are found does not prove continuity; quite as probably do they show destruction and the reassertion of original custom. In those districts of hill, valley and forest, where Roman influence did not penetrate, there was undoubtedly during Roman times unbroken continuity of Celtic life and habit. Gomme says that "Roman influence never entered inside the village community; it was strong enough as an outside power, forcing loosely knit tribes into concentrated villages, but it never became and never could become a part of the village system."[2] He is here speaking of the Celtic communities existent in Britain at the time of the Roman conquest.

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[1] A disputed point. Green and Pearson (I, 54) deny such Romanization in any special degree. Wright (*op. cit.*, Ch. v) has the best argument in favor of it, and Gomme (*V. C.*, 61) accepts his conclusions. Skene (*Celt. Scot.*, III, 197) says: "Roman influence in Wales was more intense in the south and east districts, and more superficial in the mountain regions of the west and in the frontier districts between the Roman walls, which Welsh population afterwards formed the kingdom of Strathclyde."

[2] Gomme, *V. C.*, 60.

There is evidence for believing that some time during the Roman occupation there was introduced into the country a body of Germans, both as troops and colonists. It is not necessary to discuss the debated question regarding the 'Litus Saxonicum.' The best opinion is preponderatingly against the theory that Saxon settlements were the cause of the establishment of a *comes litoris Saxonici* mentioned in the 'Notitia.' There was also a Saxon shore along the coast of lower Belgica; both were coasts open to Saxon plunderers.[1] We know from the Greek historians that many bodies of Germans, Vandals, Marcomanni, Alamanni and Burgundians were transported into Britain: they must have been considerable in numbers, yet it can be safely declared that such were not sufficient to make an appreciable difference in the ethnic conditions. At least we may record ourselves as extremely sceptical whether these importations of 'laeti,' comparatively few in number, local in their habitation and dominated by the Roman influence, could have been sufficient to form the basis of the later East English stock.[2] Stubbs thinks it pure hypothesis; Seebohm and Coote have supported the view with considerable argument. Both of the latter incur the danger resulting from the attempt to build an historical theory upon evidence doubtful at most and limited in its field of influence.

The withdrawal of the Roman legions was due, as is well known, to the call by Stilicho for troops to protect

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[1] The early writers held the opposite opinion. Lappenberg, *Engl. under A. S. kings*, I, 57–58; Palgrave, *Engl. Comm.*, I, 384; Kemble, *Saxons*, I, 10; Haigh, *Saxon Conquest*, I, Ch. V; Wright, *Celt, Roman and Saxon*, 451–452; Coote, *Romans of Britain;* Du Chaillu, *The Viking Age* accepts this view, I, 18. In favor of the opinion in the text are Guest, *Orig. Celt*, I, 154–156; Freeman, *Norman Conquest*, I, 11; Stubbs, *C. H.* I, 64, 68, note; Beddoe, *Races of Britain*, 35; Green, *Making of England*, 19–20; Scarth (*Roman Britain*, 159) evidently believes in attempted settlements and Seebohm (*V. C.*, 353, 355) inclines toward the same view.

[2] For the scattered and isolated position of the 'laeti' in Gaul, see Desjardins, *Géographie de la Gaul romaine*, III, 494–495 and pl. xx.

Italy from the Visigoths of Alaric, and more especially from the hordes of Radagaisus, who, pouring into southern Gaul from 406 A. D. to 409 A. D, cut off the island from the Empire. Zosimus tells us that the people of Britain, thus separated from the home protection, were thrown on their own resources and were obliged to set up their own government. He gives a rescript of Honorius addressed to the cities of Britain bidding them defend themselves.[1] The same is found addressed in general terms among the constitutions of the emperors.[2] On these statements Coote has built up an elaborate sequence, much as follows: The cities, resisting with complete success the attacks of the northern barbarians, erected, through the enabling power of the imperial rescript, an independent local government, with each city governed by the *comes;* such action was in accord with the general law regulating government whenever great and sudden needs compelled a departure from the common political form. When the Anglo-Saxons arrived in Britain they found the *comes civitatis* in full power in each *territorium.* "As they (the Anglo-Saxons) did not interfere with any of the existing conditions of Roman life, save only in deposing the Romans from political and financial power, they continued the office of *comes* calling him ealdorman and granting the office to one of themselves. In the same manner they perpetuated the *territorium*, which was subject to the *comes* under their own word 'scyr.'" This Anglo-Saxon version of the Roman system continued under the Anglo-Saxon kings, who legally thought themselves under the dominion of Rome, and Rome still considered Britain as her own.[3] This is a fair specimen of Mr. Coote's reasoning, and shows how easily some difficult questions can be settled, if one only has the key. It is no wonder that Mr. Freeman has spoken of Mr. Coote as a real but a wrong-headed scholar. The problem cannot be solved so

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[1] *Zosimus*, III, 6, 10; *Mon. Hist. Brit.*, lxxix.

[2] *Haenel Codices*, Lib. I, Tit. xx.

[3] *Romans of Britain*, 140–144.

easily. What happened after the withdrawal of the legions is full of doubt. Conservative opinion has said that there was a large, though not necessarily complete, withdrawal of the Roman citizens. Gildas says that they went away never to return, but Gildas is not wholly reliable. It may be considered as certain that there was a practical withdrawal from Wales and the Midlands; if not at once from the north the extensive evidence of plundering and burning would indicate a destruction of the Roman or Romanized population of Durham and the country about the Tees. But in the south, in Kent and some of the cities, there remained much Roman blood. The wealthy planters, the merchants and artisans would seek safer quarters, as was the case in Armorica, Rhaetia and Noricum, where Roman influences early ceased. Thus at the time of the arrival of the Saxon invaders the Celtic wave had swept back over the northern, western and midland portions of Britain, while a Romanized population still existed in that corner of the country from the Wash to the isle of Wight, with a possibly pure Roman population in the cities of Essex, Kent and Sussex. If this is true, it is equally true that the latter did not long remain populous cities. The sack of Anderida is well known, though it is probably true that such complete destruction was exceptional. Of London, Loftie says, "Not a single fact has yet been adduced that will go even a little way toward proving the romantic theory of Roman continuity."[1] The same may be said of the other cities and notwithstanding the arguments of Wright, Coote and Pearson, the trend of opinion is emphatically against the continuity of Roman municipal life. It is not impossible that portions of the Teutonic laetic organization may have lingered in Kent until the time of the Saxon invasion, and that in these districts there were but few Britons even in a state of subjection. This seems the most probable view of the state of Britain at the time of the Saxon conquest.

[1] Loftie, *London*, 14.

Regarding this conquest it is well-nigh impossible to come to any fixed conclusion as to how far the conquerors destroyed, displaced or united with, the existing people of Britain. Mr. Freeman complaining that he had been misrepresented, has recently clearly restated his position.[1] He denies that there was extirpation of the Britons after the sixth century, that is, after the Saxons became Christianized; even before this he would draw a line from the Mendip Hills to Land's End, cutting off parts of Somerset, Devon and Cornwall, within which no destruction took place, thus allowing that a large British element survived in the southwest. He also denies that the Britons were as a race exterminated within those parts of Britain which the English occupied while they were still heathen, and this he qualifies by saying that he does not for a moment believe that every single British man, still less every single British woman, was exterminated in any sense; "that we must have taken in some Celtic infusion, though not so much as to make us a *mischvolk;*" that British captives, although women were brought by the invaders, were largely the mothers of the present English people;[2] that the Britons existed as wives or slaves, a statement borne out by the fact that there is but a small Celtic element in our language, and nearly every Welsh word which has found its way into English, expresses some small household matter, such as women and slaves would be concerned with.[3]

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[1] Mr. Freeman's views can be found as follows: *The Origins of the English Nation*, in *Macm. Mag.*, Vols. XXI, XXII; *The Alleged Permanence of Roman Civilization in Britain*, in *Macm. Mag.*, XXII, 31; *Teutonic Conquests in Gaul and Britain*, in *Four Oxford Lectures*, 1888, and *Lectures to American Audiences*.

[2] We cannot believe that such marriages were as frequent as has been usually supposed. Concubines the women may have been and slaves frequently, but the Teutonic nature was opposed to such intermarriage and such a statement as that above is certainly overdrawn. Compare the results of anthropological study. Rolleston in *Archæologia*, XLII; and see next note.

[3] *Norman Conquest*, I, 19, 517; Beddoe (*Races of Britain*, 69) says, "A good many of the genuine British derivatives are distinctly feminine or what are called spindle words and some are servile. Dad, babe, cradle, darn, hem, posset, flummery are clearly of the feminine class, and point to

The satisfactory indefiniteness of this explanation makes it a safe basis for further discussion. It is not improbable that the Angles, Jutes and Saxons were accompanied by Frisians, also by Visigoths, though of the last there is considerable doubt. As would of course be acknowledged, the nature of the conquest differed both in character and results in the three parts of Britain, south, midland and north. The conquest of Kent, Sussex and Essex, while gradual, was probably thorough. It is at least important to note that the earliest laws contain no mention of Wyliscmen, showing that few Britons were even held as slaves in Kent, as they had entirely disappeared by 600 A. D. Before this date Saxon arms had conquered nearly all the territory east of Dorset and Somerset, and a line following the Severn to Gloucester, and thence around Bedford northward to and along the Pennine chain. But it is presumable that certain British peoples still remained perhaps in Surrey, about Leeds, while the Welsh and English ruled

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the survival in marriage, concubinage or slavery of captive British women." The frequency of 'wyln' as indicating a 'bur' or chamber-woman in the early vocabularies shows the same. Mattock is not Teutonic but Welsh; spear is Teutonic; basket may be either, much to the regret to Mr. Freeman. Professor Sayce in his address before the Anthropological section of the British Association for the Advancement of Science, 1887, has supported the theory of Roman survival by an appeal to the argument of language. He declares that the absence of Celtic words in modern English is due to the fact that Latin had become the prevailing language in Britain and was spoken by all, Roman and Celt alike; and that a completeness of conquest is not proven by the absence of Celtic elements because there were no such elements present to influence the language of the invaders. His argument which at best proves nothing, demands that we accept certain conclusions as follows: The sack of Anderida was exceptional; the Saxons did not bring their wives and children with them; Roman Britain was in the condition of Roman Gaul, thoroughly Romanized; the natives, slaves and servants, spoke Latin. That Gildas spoke of Latin as "our language" is no proof at all, for Gildas, as says Dr. Guest, "looked upon himself less as a native Briton than as a Roman provincial; not indeed a subject of the Roman empire, but a participator in Roman civilization, an upholder of the 'Romania,' an opponent of the 'Barbaria' of his country." Nevertheless Professor Sayce's argument is interesting.

together in Somersetshire and together inhabited Exeter. Portions of territory remained British around Glastonbury, Amesbury, Bradford and Malmesbury.[1] After 600 the conquest of Northumberland was continued, though checked for a time by Cadwallon, until the eighth century when it included nearly all the territory north of the Mersey and Humber. Dr. Beddoe, however, shows that the conquered territory increased much faster than it could be Anglicised, and that, although independent British kingdoms were from this time restricted to the mountainous districts north of the Solway, large parts of the population of Cumberland, Westmoreland and Furness remained British in language. Lewis, after a plausible line of argument, comes to the conclusion that the conquest of Northumbria was no more than the acquisition of dominion over British states, which remained in extent and population unaltered.[2] In the centre the character of the conquest is very uncertain. Not until the first quarter of the ninth century was the Saxon rule confirmed and the Welsh marches definitely fixed at the Wye and Offa's dyke. Yet, here too, eastward of this line, as in the north, Britons existed in varying numbers in a state of political if not physical servitude. Possibly a more or less independent British population existed in and about the fens of Ely up to the days of Canute. To attempt to arrive at any definite conclusion regarding the numbers, the position or influence of a surviving British element in the districts where it is evident that there was such survival, would be alike hopeless. Dr. Beddoe, whose views we have in the main accepted, comes to the following conclusion: In Kent Welsh language and distinction of race were early extinct; the same can be said of

[1] Beddoe, *Races of Britain*, 47–50; Freeman, *Exeter*, 18; *Archæological Journal*, 1859, 129–130; Nennius, *Brit. History*, § 63; Elton, *Origins*, 379; Guest, *Orig. Celt.*, II. 190, 253, 255. *The Welsh and English Boundaries.*

[2] Lewis, *Ancient Laws of Wales*, 257. Remains of a British character are found in the *tumuli* of Yorkshire, showing an early British occupation as well as a long continued one. Akerman, *Remains of Pagan Saxondom*, 19.

the eastern part of Wessex; but in the western portion Welsh and English lived intermixed under English law, and the former were not wholly deprived of their lands. In Mercia it is probable that the Britons were more numerous, and the supposition is advanced that there may have been alliances on a small scale between the small British states or Romano-British towns and the invaders; this may have taken place also in Essex, and it is possible that Rutland and Huntingdonshire may represent original British states, whose autonomy was wholly lost before the sixth century. In the north, in Cumbria and Craven, the evidence seems to be strong in favor of the existence of the British language and British race under Anglians, Danes and Norsemen. Above all is it certain that in these districts a large percentage of the cultivators of the soil was Celtic; a percentage constantly decreasing toward the south where the majority of the terms of husbandry are Teutonic, with a few, a very few Latin.

The above digression has been necessary in order to make clear the general statement that, although as a conquest the Saxon invasion was approximately complete, nevertheless Britain did not become thereby a *tabula rasa* whereon a uniform Teutonic system was to be symmetrically laid out. There still existed, notably in the north, a considerable body of British people, whose influence must have been appreciable, though probably confined, except along the extreme western border, to matters of agriculture and peasant life. In the south and southeast there was almost free scope for the Teutonic system, save for the influence of Roman survivors and the Roman system which had been so long in use. The conditions governing the economic development in Kent cannot be postulated for Mercia, nor those of the valley of the Severn for Northumbria. In addition to that, it must be said that we cannot assert that the Saxon conquest and influence penetrated into every forest and hill-top of the country which the invaders traversed, for it is well known that large parts of Britain remained dangerous *terra incognita* long after the

Norman conquest. Thus it is far from unlikely that British people and British villages remained in certain localities in a measure undisturbed, and that these were agricultural and grain-producing villages there is every reason to believe. Such survival would not influence the Teutonic character of the settlement, but it would account for the continuation of British life and customs.

The darkness of this period of English history and the fact of the complex character of the population as already stated have led to careful comparisons of the Welsh and Saxon, Roman and Saxon agricultural and legal systems. Scholars are divided on the results. In favor of the Welsh influence stand Palgrave, Lewis[1] and in part Kemble. In favor of the Roman are Coote, Wright, Pearson (conservatively Roman), Finlason,[2] Spence,[3] Scarth, Seebohm and Ashley.[4] While in favor of the Teutonic theory are those whose views are most widely current, who reject any appreciable persistence of Roman or Celtic customs and who hold to the practical identity of modern institutions with those brought by the invaders from

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[1] *The Ancient Laws of Wales*, by H. Lewis, 1889. This work, which we have already cited, displays remarkable industry and on the whole a judicious temperament. It has reopened the whole Celtic question. Its breadth and display of erudition will long make it a house of refuge for Philo-Celtic writers, and the arguments favoring a Celtic influence upon or origin for the majority of English institutions can hardly be so readily dismissed as was Palgrave's reasoning by Bishop Stubbs. (*C. H.*, I, 68, n. 5.)

[2] Finlason, Introduction to Reeves, *History of English Law*, xxxviii–lxxii. He agrees with Coote that the Saxons brought no institutions worthy of the name and destroyed none of those which they found in Britain. He rates the culture of the Saxons and Britons very low, and considers it idle to speak of their having laws.

[3] Spence, *Equitable Jurisdiction of the Court of Chancery*, Chs. I, VII, VIII, IX, XI. He sees Roman influence in matters of tenure and vassalage chiefly. The ceorls not improbably were descendants of the slaves brought over by the conquerors, or were original cultivators whom the Saxons spared, I, 51.

[4] *English Economic History*, I, 15. Introduction to Fustel de Coulanges, *Origin of Property in Land*, xii–xvi, xxx–xxxi, xxxviii.

Germany. These are Guest, Stubbs, Maine, Freeman, Gneist and Green, and their many followers. It was Konrad Maurer's criticism and Schmid's rejection which first cast doubt upon the Mark theory of Kemble. While acceptable to some English scholars, it has proved unacceptable to others, and as a theory in its present form, it may be said to be no longer a factor in the critical discussion of early English history. But this by no means weakens the general principles which it represents, as is shown by the fact that Bishop Stubbs, sceptical regarding the Mark, stands firmly by the Germanic origin of English institutions. While the free village community was under fire at home as well as abroad, Mr. Seebohm presented a new view of an exactly opposite character, with the formula of the community in villeinage under a lord. Although this view has for the moment divided thinkers on the subject, it has proved no more satisfactory than the other; for while it does explain the origin of the lord of the manor, it leaves wholly untouched the body of free Saxons, whom Earle calls the rank and file of the invading army.[1] Other theories have sought to supply the omissions in this vague non-documentary field, all erected with learning and skill, but unfortunately not in harmony with one another. Coote and Finlason[2] have given to the manor an unqualified Roman origin. Lewis holds to a solid British foundation,

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[1] Mr. Seebohm's theory has been attacked from nearly every quarter. The service which the book has rendered is inestimable, but the formula is open to grave objections. Professor Allen in the *Village Community and Serfdom in England* and Professor Vinogradoff in *Villainage in England* have defended the original freedom of the ceorl. Scrutton in *Influence of Roman Law* criticizes the view regarding the Roman influence; Freeman naturally objects to the South German origin; Lewis finds the interpretation of the Welsh evidence at fault (pp. 156–159, 183 ff.); Earle declares the theory in its present form very improbable; Gomme is at issue on half a dozen minor points; Kovalevsky says it is a failure (in *Law Quarterly Review*, July, 1888). Of recent writers Professor Ashley seems to be the only one of importance who is in sympathy with Mr. Seebohm.

[2] Finlason, Introduction to Reeves, *History of English Law*, li.

the Teutonists would make it wholly Saxon, while Gomme is inclined to see an Aryo-British community under Saxon overlordship. Thus there is a wide range from which to select; all cannot be true; no one is an explanation of all conditions, yet most of them have considerable sound evidence to support them. It is this lack of harmony, which drives the student to discover some theory which shall be in touch with known tribal conditions and a natural consequence of their development, and which at the same time shall be sufficiently elastic to conform to the facts which confront us in the early historical period. An attempt has been made above to lay down two premises, the first of which is the composite character of the tribal and village community, and the second the diverse ethnological conditions of Britain after the conquest, conditions which would allow for different results.

The most probable view of the Anglo-Saxon conquest represents it as the work of more than a mere body of warriors. It was characteristic of the Völkerwanderung, that not only the men, the warriors, took part, but also their wives, children and old men; with them were their serfs and slaves, and their herds, and they carried their goods upon wagons and carts.[1] There is no reason for believing that the conquest of Britain was otherwise accomplished except in the reduction of the number of women and old men, the absence of herds and the substitution of keels for wagons and carts. Bede says that Angeln was stripped of her entire population, so that the country was a desert in his day. This would show that Bede 250 years after the conquest had an idea of something more than an attack by a mere body of warriors. It is no obstacle to our conception of the fighting powers of the Saxons that they had with them their wives and children; the Goths, Franks, Suevi, Vandals and others were equally encumbered, an encumbrance which, according to Tacitus, was rather a benefit. The Saxon settlement was not peaceful; it was

[1] Dahn's Wietersheim, *Einleitung*, 7; Stubbs, *C. H.*, I, 69–70.

accompanied with fierce fighting; it progressed slowly from the different points of invasion on the south, southeast and east. Therefore the Angles, Jutes and Saxons were people under arms, drawn up in order of battle. Now there was no more widespread and uniform custom than that which regulated the battle-line of the Aryan people. The rank and file were arranged by clans, or by clans and families and each clan was the village in arms. This system was practiced very widely. It is mentioned in the Vedas, circa 1200–1000 B. C.;[1] in the Sanskrit epic, circa 600 B. C., where its survival is the more remarkable since the civilization had become complex and artificial;[2] in the Avesta,[3] in Homer and in the accounts of Cæsar and Tacitus. The Aryan conquest of Hindostan was not unlike the Saxon conquest of England. Each foot of ground was gained bow in hand; the girls and women of the conquered race (Dasyu) were taken into the houses of the conquerors as slaves, while the men that were not reduced to slavery were driven to the mountains to subsist on plunder and robbery.[4] We must take exception to Gomme's statement based on the laws of Manu and the Institutes of Vishnu that the Aryan conquerors were not an agricultural people. The Vedas clearly show that when once the conquest was accomplished the Aryans resumed the plough and agricultural life, living in villages, for the most part unprotected, as described by Tacitus.[5] These villages were the home of the kindred group, at whose head was a leader (grāmaṇī), who led the village group in war. We are, unfortunately, told too little about this village head to understand his relation to the village or the origin of his office,[6] and can only suggest that

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[1] Zimmer, *Altindisches Leben*, 160–161.

[2] Hopkins, *Jour. Amer. Oriental Society*, XIII, 193.

[3] Geiger, *Ostiranische Cultur*, 439.

[4] Zimmer, *Altindisches Leben*, 117–118. [5] Zimmer, 141, 235 ff.

[6] It is unfortunate that the evidence from the Vedas or Avesta is too vague to give any definite information regarding this headship. As already said, the former shows a state of constitutional life strikingly

the clan and sub-clan groups of the Saxon army fought together under a similar leader.[1]

Kemble in his chapter on Personal Rank has a remark which is ill in keeping with his peaceful Mark theory. He says: "There can be no doubt that some kind of military organization preceded the peaceful settlement, and in many respects determined its mode and character."[2] To this statement Earle has added another equally pregnant: "Of all principles of military regiment there is none so necessary or so elementary as this, that all men must be under a captain, and such a captain as is able to command prompt and willing obedience. Upon this military principle I conceive the English settlements were originally founded, that each several settlement was under a military leader, and that this military leader was the ancestor of the lord of the manor."[3] Professor Earle then continues in the endeavor to apply the suggestion contained in the above quotation. He shows that the 'hundreds' represent the first permanent encampment of the invading host, and that the military occupation preceded the civil organization, the latter falling into the mould which the former had prepared. According to this the manorial organization was based upon a composite military foundation, the rank and file composing the one element, the village community; the captain or military leader composing the other, settled

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like that which Tacitus draws. The same elements make up the state; there is the clan and family organization of the army; over each village there is a lord, a master, a head. But when this is said we must stop; the comparison cannot be carried further. Zimmer presumes that the village chief led the kindred contingent in war and presided at the village council. But the interesting account given in Yasna XIX, (*Sacred Books of the East*, XXXI), furnishes no evidence, for nowhere are we told whether the village lord is hereditary, elected or nominated by the king. *Altindisches Leben*, 162, 171–172.

[1] "It was not a national or imperial army which met the invading Teutons, but clans and tribes who fought with clans and tribes." Gomme, *V. C.*, 292.

[2] *Saxons*, I, 125.

[3] Earle, *Land Charters*, lv.

with suitable provision by the side of his company; the lord by the side of free owners. In this attempt to give the manor a composite origin, as the only rational means whereby the chief difficulty can be removed, and in the attempt to carry the seignorial element to the very beginning we believe him to be wholly right. But an objection must be raised to the way in which Professor Earle makes up his composite element. It is too artificial, too exclusively military; the occupiers of the village are the members of the 'company,' the occupier of the adjacent seat is the 'captain,' afterwards to become the lord. This captain is the *comes*, member of the *comitatus* of Tacitus whom the Saxon translator of Bede renders 'gesith.'[1]

There are moreover some difficulties in the way of this supposition, not the least of which is the fact that it is no more likely that a general distribution of land to military followers took place in England than on the continent and it has been satisfactorily shown that the German *comitatus*, as an institution, had nothing to do with the origins of the feudal system.[2] Although the arguments of Fustel de Coulanges do not apply to England with the same force as to the continent, owing to the greater completeness of the conquest there, nevertheless they do apply in a measure: direct grants of land to military followers were contrary to the principle of the *comitatus;* to the *comes* whom Tacitus describes gifts of land would be of little value, his tie of attachment was not territorial but personal and the only evidence which Bēowulf furnishes relates to the king and the royal gesithas; in no

[1] Earle was not the first to suggest the identity of the 'gesiŏ' with the *comes* of Tacitus and his position as predecessor of the 'ŏegn' as lord of the manor. Coote, in his *Neglected Fact*, says that "as the first and immediate consequence of this conquest of Britain the Anglo-Saxon 'gesiŏas' became the gentlemen of the country which their swords had won," 1–10. Kemble has the germ of the idea in his chapter on the "Noble by Service"; Stubbs presents much the same idea in his *Constitutional History*, I, 172.

[2] Fustel de Coulanges, *Origines du Système Féodal*, 12–30; Waitz, *V. G.*, I, 398.

instance do leaders of secondary rank reward their followers with land.[1] Only by the king was land given and then for special great deeds, from territory already settled, apparently king's domain.[2] Such gifts were not the outgrowth of the *comitatus*, they were the outgrowth of the close personal relation which characterized all Germanic institutions. These royal grants of which we have so much evidence in the early English charters show us that such gifts were made as early as the time of Aethelbirht, and probably earlier though unrecorded. But this hardly warrants us in the supposition that such grants or any general distribution was made at the time of the conquest; and it is evident that we cannot explain upon this basis alone the origin of the manorial lordship. Some other form of origin must be taken into account. When settlement began, it was fundamental to the existence of the main body of the conquering people, that the kindred group, the *cognatio* or *familia* should have a definite territory whereon to locate. Wandering ceased when the conquest of Britain began and the groups of kindred tribesmen must have fastened themselves to the soil; probably instead of an exact numerical grouping we are to consider the association of a number of such groups together as due to their common connection with the larger tribal group. As they fought together so they settled down together on adjacent territory and began the development of a petty state, of which each village group formed a part. At the head of each tribe was the tribal chief, already rapidly changing into the king of this petty state; at the head of each kindred group was also a chief, the military leader of the 'mægth,' who

[1] The chief is the money giver, *B.* 21; distributor of rings, 35, 80, 352, 607, 1092, 1102–1103, 2636, 2810–2811; of treasure, 1343, 2143–2144; of gold, 1477, 1603, 1772, 2420, 2585.

[2] King Hygelac gives to Bēowulf on his return from his victories over Grendel and Grendel's mother, seven thousand 'bold and bregostôl,' houses or estates and a chieftain's seat, 2195–2196. He also gives to Eofor and Wulf a hundred thousand of lands and locked rings, 2990–2995.

was by a similar process destined to form one of the starting points for the growth of manorial lordship. From an institutional point of view, the same general conditions gave rise to the lord of the manor that gave rise to royalty, a fact which both Mr. Freeman and Sir Henry Maine freely state, with this difference, that each presupposes an original condition of practical equality. Professor Earle says that "much of the enquiry into the Growth of the Royal Prerogative might have been spared if it had been seen that the royal office was military in its inception, and hence we might expect to see it elevated and imperial in its nature even at the earliest date at which evidence begins to be available. The royal character is a natural development from that of a chieftain with his council of war around him."[1] Let us qualify this by saying that the office was military in its nature but not in its origin. The power of the chief in time of war, as is shown by a remarkable unanimity of custom among tribal peoples, was almost absolute, differing therein greatly from his power during peaceful times.[2] In this military headship, so enhanced by the warlike character of early English history, we may well see the inception of an extraordinary growth of the royal prerogative upon English soil.

While we feel certain that the local community, the village, was simply the kindred, the sub-clan group, which had become a local habitation,[3] yet when we attempt to test its presence in Anglo-Saxon Britain we meet with many difficulties. It is well known that there are only traces, even in the barbarian laws of the continent, of the institution which Tacitus describes,

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[1] Earle, *Land Charters*, lxiv.

[2] "In those wandering times people and army were one, and the clan lord or *rêg*— became the commander or *vojvoda*. It was in these times that the reins of regal or princely power were drawn tighter." Schrader, 399-400.

[3] Schrader says that "the village community is nothing but the *sib* or φρήτρη become a local habitation," and Zimmer that "to the oldest district nomenclature which preceded the shire belongs the maegth, a region which the associates of a *geschlecht* or *stamm* occupied, a *magenschaft;* as they fought together in war and plundered together, so they held together in peace."

and we can only conjecture in what condition it may have been at the time of the Völkerwanderung, when and for a considerable period afterwards, the Saxons and others were crossing to Britain. It may have been already in process of dissolution, yet with justice may we believe that it had lost but little of its original nature, though destined to undergo speedy transformation in a country where constitutional changes were so rapid. That form which it ultimately reached, and the only form of which we have positive proof, has no longer the character of a localized distinct body. The village has become feudalized, and the last surviving trace of the kindred bond is seen in the 'sib' or the 'mægth' as the bearer of the police and the criminal law. But the functions accompanying this position cannot be traced after the time of Edgar and the last trace of that which was the fundamental principle in the unity of primitive peoples was, so far as its importance in the state was concerned, eventually absorbed by the growing needs of political life. But the fact that we discover in historical times these traces of an original kindred unity, supports the conclusion that in the period immediately following the settlement the 'mægth' was a territorial unit.[1] This

[1] Young's definition of 'mægth' refers incontestably to this later period: "The Anglo-Saxon *maegth* was not a distinct group composed of certain definite persons, all under a single head. The *maegthe* were inextricably interwoven. It is only when some one person is taken as a starting point in the reckoning that the *maegth* assumes a defined form and the several kin can be assigned to their proper places." *Essays in Anglo-Saxon Law*, 151. Compare with this the opinion of Dr. Sullivan. "With the development of the strong centralized government of the Anglo-Saxon kings the genealogical character of the subdivisions of the country disappeared, and they became purely territorial. The old responsibility of the *maegth* or clan in its territorial character has, however, survived to our own time. . . . In comparing Irish customs with Anglo-Saxon ones, we should never forget that we know the latter only after the clan system, and the original cantonal or hundred organization has been more or less modified, and strong central government existed, which tended to obliterate the old customs." Sullivan, Introduction to Dr. O'Curry's Lectures, *Manners and Customs of the Ancient Irish*, I, cxcix. Note also Maurer, *Kritische Ueberschau*, I, 52; 69–71; Stubbs, *C. H.*, I, 123–124; Elton, *Origins*, 387, note 1.

seems to be further borne out by the use of the term as denoting a territory, a district, which is common to Anglo-Saxon poetry as well as prose. The use of 'mægburg' in Bêowulf is suggestive. Similarly so the use in the Genesis, a use which points clearly to the conception of the 'mægth' as a compact, closely united community of kinsmen, with a chief and a seat called, as in Bêowulf, 'mægburg.'[2] To these statements we may add the use of the word 'gelondan' (*fratueles*), as denoting cousinship or brotherhood, thus suggesting by a word which shows the landed relationship the idea formerly conveyed by the word φρήτρη.[3] Further than this, there are the many place names upon which Kemble has spent so much learning and ingenuity, and which Stubbs thinks were probably in origin the settlements of community groups united either by blood or by belief in a common descent.[4] From this we may readily conclude that England was in cer-

londrihtes môt
þære mægburge monna æghwylc
îdel hweorfan, . . .
lines 2886–2888.

[2] Heafodmaga (1605); heafodwisa (1619); magoræswa mægðe (1624); mægburh (1703). Compare also *Genesis*, §§ xiv, xvii; *Ine.*, 74 § 1; *Aelf.*, 41. In the following quotations 'mægð' seems to suggest an original use of the word similar to that indicated in the text. In the *Passio Sancti Albani* (52–56):

Þa axode se dema ardlice aud cwœð
Hwylcere mægð eart þu oððe hwylcere manna;
Ða andwyrde Albanus þam arleasan þus,
Hwæt belympð to þe hwylcere mægð ic sy.

and again in *Vita S. Martini Episcopi* (Aelfric's *Lives of the Saints*, II, 220):

He com of hæðenum magum æþelborenum swaðeah
Of wurðfulre mægðe.

[3] Maurer, *Krit. Ueb.*, I, 70. Schrader, 399.

[4] Kemble, *Saxons*, I. Appendix A. Stubbs, *C. H.*, I, 87. Traces of tribal organization can be readily seen in Teutonic Britain, and attempts have been made to prove the existence even of totemism and the totemic clan. Lang and Grant Allen have advanced the theory, but the best argument is by Gomme in *Archæological Review*, III, 217–242, 350–375. For evidence indicating totemism among the Teutonic invaders see pp. 356–360.

tain districts not thickly but sparsely settled by kindred groups in a more or less definite state of original kindred unity. This 'mægth,' the kindred, which was afterwards to have the meaning of 'mægth,' the territory, may have been under some form of leadership, the chief, the necessary leader in war, as we have already conjectured, and may have contained a not inconsiderable body of slaves, the people conquered in war.

If we turn from the group itself, which was fast breaking down under the pressure of extraneous influences, to the land upon which it settled, we discover a few slight indications of what may have been the seats of tribal and clan settlement and organization. We have already noticed the patronymic names. 'Mægth' as meaning territory is uniformly employed by the Saxon translator of Bede's ecclesiastical history. The same is true in the glosses, where 'mægth' is rendered *provincia* and 'scîre' is rendered the same. We believe that there is more in the history of this word 'scîre' than we learn of in constitutional histories. A careful comparison of its uses would throw much light upon its early character. It is evident that 'scîre' had originally no fixed meaning; it was applied to any portion of territory which was a part of a larger unit or in which there was administration of any kind. Notice its equivalents in the glosses: *praefectura*,[1] which would indicate the administration of a villa or province; *procuratio*,[2] *dispensatio*[3] each of which means administration in general, without regard to extent; *provincia*, simply an administered district.[4] The Anglo-Saxon equivalents are 'dihtnung,' 'brytnung,' 'diht,' each of which means oversight or administration, and lastly 'gedal,'[5] which is merely a portion. That these were even in late times used in a simi-

[1] Wright-Wülcker, *Vocabularies*, 464, 33.
[2] W.-W., 183, 27; 276, 33; scirman = *procurator*, 183, 28.
[3] W.-W., 18, 10; 222, 43; 385, 27.
[4] W.-W., 177, 21; Aelfric's use. [5] W.-W., 222, 43.

lar sense and concretely applied to the manorial administration the *Rectitudines* and *Gerefa* clearly show. Each employs 'scîre' to mean the territory of such administration[1] and twice the *Gerefa* uses 'scirman' to signify the gerêfa, the administrator of the manor, the *procurator*, if we use one of the Latin equivalents,[2] and a similar use is found in the parable of the unjust steward.[3] May not, therefore, the term 'scîre' have been applied to the territory of these original community settlements, indicating their growing political importance as well as their position as parts of larger units, the tribe-states? There is evidence, given by Stubbs and Elton, that there existed a considerable number of petty tribal kingdoms along the sea-coast and in the interior, some of them perhaps commensurate with later hundreds, some of them larger, both representing the seats of tribal groups.[4] Some of

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[1] Hêde se þe scire healde, *Rectitudines Singularum Personarum*, 4, § 4; Hede se ðe scire healde, *Gerefa*, § 2; ðe scire healt, *Gerefa*, § 18, in *Anglia*. IX. 259, 265.

[2] Swa sceal gôd scyrman his hlafordes healdan, § 5; Ic eal geteallan ne mæig þæt gôd scirman bycgan sceal, § 12.

[3] The Saxon version of this parable is of peculiar interest in this connection. The steward is the gerêfa, the tûngerêfa; the manor is the 'scîre,' the 'tûnscîre;' the office of gerêfa is the 'gerêfscîre,' the debtors the 'gafolgyldas.' For instance, the lord says to the gerêfa: Hwi ge-hyre ic þis be þe, agyf þine scîre ne miht þu lencg tûnscîre bewitan. Then is the gerêfa troubled and asks himself what he shall do that the 'gerêfscîre' be not taken from him, and he plans to so arrange his relations with the 'gafolgyldas' that they may take him in when he be-scîred beo fram tûnscîre; therefore, he calls the 'gafolgyldas' to him, and remits their gafol. *Luke*, XVI.

[4] There is that problem of archaic history, the list of thirty-four tribes most of them belonging to the midland region, which certainly point to the colonization of tribal groups. Birch, *Proceedings of Brit. Arch. Ass.*, vol. XL, 28–46. *Cartularium Saxonicum*, 414–416. Earle, *Land Charters*, 458. Kemble, *Saxons*, I, 81–82. To this list may be added many other indications of a similar form of original settlements; of such peoples are the Maegsætas, Merscwaras, Meonwaras, now the hundreds of East and West Meon in Hampshire; the Gevissi, Hwiccas and Hecenas; in Hereford and Worcester; the separate state in the Isle of Wight; the East Anglian 'Folk'; the

these original tribal states, existent in and before the seventh century, may have become the shires of the tenth century kingdoms. How far many of these tribal groups had advanced toward statehood, and how far the smaller village settlements had became feudalized by the seventh century, there is no possibility of knowing. Certain is it, however, that some existed as complete and independent kingdoms by that time, and equally certain is it that the formation of the later so-called heptarchic kingdoms was by a process of absorption or of forced federation.

Such original tribal states must have been naturally established during the entire heathen period of the Saxon conquest. During this period, when a foothold was first obtained on English soil, over and over again were the Angles and Saxons checked in their further advance inward by the density of the forests and the prevalence of great morasses and fens as well as by the stubborn resistance of the Britons. During the periods of continuous warfare we may well question the permanency of an agricultural settlement. Enough was it that leadership in tribe and clan was becoming more marked through the influence of the authority which the constant standing in arms demanded. But when checked in their advance, decades would pass before the spear and the seax would be taken up, and it was during such intervals that settlements would be made and permanent communities formed in the rich lands of Norfolk and Suffolk, along the lowlands of Yorkshire and in the fertile clearings of Sussex and Hampshire. It is probable that there was a greater crowding of settlement along the coast, in that narrow strip from Wight

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Lindisfaras in Lincoln; the Peak settlers and Chiltern settlers; the Middle Anglians in Leicester; the Dorsætas, Wilsætas, Sumersætas, Gyrvians, north and south, near Peterborough and the Cambridgeshire Fens. The existence of such tribal groups or states would also seem to be shown by names of hundreds, taken often from the primitive name of the place of meeting for the tribal assembly. Stubbs, *C. H.*, 115, 124–125. Jones, *Wiltshire Domesday*, xxxi. Elton, *Origins*, 355, 369, 376, 379.

to Whitby, than in the interior, yet the evidence on this point is by no means conclusive. We may justly assume, however, that each of these peoples was a normal tribal group, constructed in the normal tribal manner, perhaps already taking on political form. Each of these was, however, a unit in itself with army and assembly, made up of the kindred groups. Each kindred group or 'mægth' was not a voluntarily associated body of freemen, but a collection of related tribesmen under a hereditary leader, a 'mægth' chief, a necessary element, for a people whose first duty in this early time was war. The settling down would be according to this military arrangement. The kindred group would be allotted land whereon to erect its village; the 'mægth' chief, one of the germs whence was to spring the future manorial lord, holding a position of superiority, and probably receiving a greater share of the booty, cattle and slaves, would naturally be given a greater portion of the allotted land. He may have occupied a house apart as the Basutos chief and have exercised certain administrative functions. Such composite groups without political independence, without court and only a village môt of the simplest administrative kind were destined to become in the development of English constitutional history the unit of English constitutional life.[1] A trace of this relation of the 'mægth' to the larger unit is found as late as the time of Aethelstan, when it was the duty of the kindred to see that each of their landless men should be provided with a lord in the folc môt. It seems probable that this folc môt was in many cases the origin of the hundred môt, the lowest court, properly so called, in earliest Anglo-Saxon times.

In thus presenting the conditions of settlement we have sought for that view which seems to be most probable. If we attempt to construct the manor on purely artificial grounds, it is difficult to account for its universally wide prevalence. If we allow that some of its roots were fastened in a still

[1] *Cf.* Stubbs, *C. H.*, I, 76–77.

more primitive organization it is possible to understand how a manorial system grew up in other countries and among other peoples. It is difficult to see why it should have been so generally taken for granted, that the Teutonic clan or sept, when transported to England was a body of related families without head or chief of any kind, or, if there had been such, of so purely an elective character as to be without importance in the discussion. To start with a clan chieftain whose position is practically hereditary and whose strength increases with the military nature of the conquest, renders unnecessary the extreme theory of usurpation and aggression wherein the absence of hereditary right would render the steps in the seignorial advancement extremely uncertain, and wherein it is quite as possible that in some places half a dozen men as well as one should have become owners of the soil and have divided manorial prerogatives between them. In Mr. Seebohm's theory the chief and vital omission is the body of free tribesmen, which certainly existed and must be accounted for. It is for this triple purpose, to do away with the purely artificial origin of the manorial group, to avoid the condition of absolute equality, followed by usurpation and aggression, and to account for the free element which formed the larger part of the Saxon peoples that we have attempted to draw in this introduction a sort of brief in defence of the composite community group, which we believe formed one of the starting points for the later manorial growth. No one can appreciate better than ourselves the inadequacy of actual proof for this view; indeed, had there been proof of any kind, the question would have been settled long ago, but with all respect be it said to the work of greater scholars—we believe it to have as much actual foundation and more probability than the theories of either Mr. Kemble or Mr. Seebohm.

Before passing to the next stage in the discussion it may be well to note certain fundamental principles which should govern, as it seems to us, any examination into a problem of this kind. The question of proof will depend largely on the

adherence to certain broad historical axioms, which cannot be neglected in any investigation and which have not always been taken into sufficient account. In the first place it is highly improbable, that, in the growth of social and political institutions from primitive to historical times, there has been any uniform process by which later results have been attained. We must take into account the fact that there are many combinations of causes and that such combinations are not always composed of the same elements. A study of the writings of many scientific observers would lead us often to the belief that civilization has progressed along parallel lines according to one established scheme and that all evidence not in harmony with such scheme must necessarily be rejected. This has been often the case with writers on the evolution of marriage, the family, religion and political institutions generally. Like causes however do not always produce like results and like results do not always spring from causes which are identical. In the second place, we must be careful in our use of the argument from analogy. Analogy is not proof, but illustration; its value for the erection of a working hypothesis will always make it a useful adjunct to historical study, but in itself analogy can decide very little. Stubbs' dictum should be made an historical axiom. "No amount of analogy between two systems can by itself prove the actual derivation of the one from the other."[1] This is the accusation which may be brought against Kemble for the introduction of the Mark theory into England and against Seebohm for his identification of the Saxon and Roman manorial systems. No matter how close the similarity, there will always be this vital flaw in Mr. Seebohm's argument, such similarity cannot prove more than coincidence. In the third place the manor as an institution in English history has not been at all places and at all times the same. The well developed institution of late mediæval times cannot be car-

[1] Stubbs, *C. H.*, I, 227.

ried back to an earlier period in the growth of that institution; nor can its nature, unless evidenced by a considerable number of documents, be accepted even in later times as of universal application. We cannot force the term manor, with all its thirteenth century meaning, upon the eleventh century, nor can we premise that the Saxon estate of the eleventh century existed in anything like that form three centuries earlier, nor even in the eleventh century universally throughout England. For this reason we believe that all the Saxon evidence before the *Rectitudines* is of little value for Mr. Seebohm's main argument. We look for no singleness of origin nor uniformity of custom in the study of the Saxon manor. Too many influences were at work to make any single system applicable. The original elements that went to form it, aside from the lord and the tenure, were too various. The nationalities, the inner organization, the influences acting from without, the steps in the growth toward the more completely developed manor with private jurisdiction, all would have their own peculiar forms according to the portion of England in which the development took place. It has already been shown that not all England, nor any considerable portion of England formed a *tabula rasa*, whereon a single system of any kind could be erected. Approximately similar results may have had different causes, although such may not have been structurally different; for notwithstanding variance in origin and variance in development, the tendency of such development from the seventh to the fourteenth century was certainly in a feudal direction, although the essential elements may not have become established until after the Norman conquest. This tendency was greatly accelerated by the warlike character of the Anglo-Saxon period and the feudal character of the Norman period, and this acceleration seems to us more rapid than it actually was because of the ignorance and officialism of the Norman lawyers, who saw but one uniform manorial type existing throughout England. We must take something else than the writings of Fleta and Bracton for our guide if we would realize that

even in the thirteenth century the systems of land tenure, the number of the tenantry, the character of their services and the system of administration were far from uniform in the English manors. Even Domesday, with its financial regularity, its ledger-like completeness, gives no perfectly true picture of the inner life of the manor of the eleventh century. And lastly the author of the *Rectitudines* over and over again tells us that the customs and 'folcriht' in some lands differed greatly from those in others.[1] Reference to this document will show that this diversity touches nearly every phase of the inner manorial life. This leads us to be somewhat cautious about accepting any one given system as an explanation solving the whole problem. Gomme has discovered traces in very recent times of important survivals in the communities of the midland and the north; survivals which seem to indicate tribal origin. If such peculiarities and differences can be even faintly seen at the present time, how much greater must such have been five centuries or more earlier. The village communities mentioned in Gomme's evidence relate to the central shires, the tribal communities to western Scotland and Ireland. On the other hand, the village community investigated by Mr. Seebohm, is located solely in the south. The evidence which each adduces is not necessarily antagonistic to the other. We may not accept their ultimate conclusions, but one thing is clear from their work: that, so far as the village and its relation to a lord was concerned, it was quite possible for systems of quite different kinds to have existed and grown up on English soil.

It will be generally agreed that the strip of conquered territory which extended from Whitby around to Wight and Dorset was occupied in some way during the first fifty years by collections of Angles, Saxons and Jutes, and perhaps others,[2] settling

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[1] *R. S. P.*, 1, 2, 3, 4; §§ 3, 4, 5, 6, 8, 21.

[2] Elton, *Origins*, 357. "A share in the enterprise is claimed for every nation between the Rhine and the Vistula."

down in agricultural communities, tilling the soil and living more undisturbed in some parts than in others. Kemble assumed that such settlements were composed of bands of independent freemen. We have assumed that they were kindred groups, with, in most cases at least, a recognized, probably hereditary chief. This chief may have had separate houses and lands, slaves and cattle, though at the same time, because a member of the community, he also held with the other freemen his legitimate share in the arable lands which were cultivated by all.[1] This represents one germ from which, under the pressure of external influences, the lord of the manor might have developed. We do not believe that the head of every 'mægth' was thus transformed, for the feudalizing of this group might be under certain circumstances to the disadvantage as well as the advantage of this kindred head, possibly because of the rise of landed proprietors, who gained their title in other ways. This second source of seignorial privileges was of no slight importance as supplementing and occasionally, it may be, displacing the other. Some manors were without doubt created by means which we may loosely call artificial as contrasted with the organic character of the original group. Mr. Freeman, in a passage singularly in keeping with the theory before us, has presented the two methods, although he does not allow that the first ever existed on English soil. He says: "Where, as in the Celtic parts of the British islands, the old constitution of the *gens* or clan went on longer than it did among ourselves, we can see the actual process by which under the in-

[1] It seems impossible to understand that condition so familiar in later manors, where the demesne land of the lord was made up in large part of strips in the open field, otherwise than by considering the lord to have been in some way organically connected with the village group. Vinogradoff says: "The demesne land appears in fact as a share in the association of the village, a large share, but still one commensurate with the other holdings, ... the usual treatment of demesne in the thirteenth century is certainly more in conformity with the notion that the lord's land is only one of the shares in the higher group of the village community." *Villainage*, 317.

fluence of alien jurisprudence the chief of the clan changed to the lord of the soil. The land of the clan was held to be the land of the chief, and the body of the clansmen, in truth the fellow owners, came to be looked on as tenants holding of him. In England, where the gentile system died out so much sooner, our earliest glimpse of territorial lords sets them before us as holding their lands and jurisdictions by grants from the king."[1] It is the latter point which we would briefly discuss.

It is only when we examine with care the physical geography of England before Domesday, that we can appreciate the immensity of the tracts of land which were uncultivated, forming bleak waste, barren moors and dense forests. In the midst of this wilderness of wood and marsh settled a population very scanty in numbers. In Domesday half of Dorset is still outside the manorial communities.[2] In Yorkshire the country now embracing Danby, Glaisdale and Eyton, which in round numbers included 38,600 acres, contains in Domesday four tiny patches of cultivated land, in all making no more than 1500 acres, a little more than four per cent.[3] In the south the clearings were greater, and the area of cultivated ground was constantly increasing; but if, in the time of Elizabeth, one-third of England was still in waste, we will not go far wrong in saying that in the days of Aelfred the figures would be reversed.[4] And this, too, in spite of the fact that the Romans had labored for three hundred years and the Church and the monks for two hundred and fifty more. We can very inadequately conceive of the amount of land which lay outside of such agricultural communities as were formed by these kindred groups. Such unoccupied land would soon be made use of, and communities would soon grow up within it themselves the basis of Domesday manors. This would have been in part accomplished by the pushing out of new

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[1] Freeman, *N. C.*, V, 462.
[2] Eyton, *Key to Domesday*, 152–156.
[3] Atkinson, *Forty Years in a Moorland Parish*, 408, 418–419.
[4] Elton, *Origins*, 218–225.

groups into the unbroken territory; in part, in the west and northwest, by the continued existence of Celtic communities, either surviving the invasion or beyond its reach. But a fruitful source of manorial rights in these districts would be the grants by royalty of uncultivated lands to *comites*, *milites* or *ministri* and above all to the Church. Abstract conceptions of property were foreign to the Teutonic peoples; of rights in that land which furnished them support they were keenly cognizant, but of rules of property in the modern sense there was no need,[1] and of conceptions of property in the modern sense there is no evidence. Therefore it is when we join this absence of a theory of property to the existence of such immense tracts of unused woodland and wet land that we can see how important would be the royal right of making grants to individuals. Such titles differed markedly from those by which the kindred group occupied their land. In the first case such grant was of property in a sense of the word new to the Saxons, as we believe. It was property apart from its value for use; of lordship apart from the fact of possession.[2] These grants, mentioned in Bêowulf, are first found in the laws of Aethelbirht, at a time when the Church first brought her influence to bear, an influence largely Roman in its character. Where it happened, as it would in a majority of cases, that an occupation of such lands would take place, and a tûn be timbered, or a by built, or a monastery set in a fertile spot, by stream or bourn, in valley or den, then there would be gathered together about such tûn or by or monastery a a collection of huts upon the lands forming a village group. Such method would explain why on so many manors we find so few tenants; why in the charters and Domesday book there are mentioned sometimes but half-a-dozen, eight, ten, twenty with but few slaves and oxen. Thus the first element to be formed on these artificial manors, if we may so call them, would be the dominical element, the tûn, as used in the trans-

[1] Pollock, *Oxford Lectures*, 118. [2] *Oxford Lectures*, 122.

lation of Augustine's *Soliloquia* and in the *Gerefa*, the by, as we find it in the Danish place names, consisting of the lord's or chief's house with its outbuildings and quarters for cattle, which was set up in the clearing, hewn from the forest. When once this dominical element was formed the development of the second part, the village group, would not be a difficult matter. The chiefs, whether Saxon or Danish, receiving slaves and cattle as a part of their booty, would use the first as a dependent agricultural body upon the tûn, the second as a means for gaining additional cultivators on the outside lands, cultivators who were free, though subject to burdens arising from the new tenure.

It may, therefore, be assumed that the dominical part of the manor had a double origin and that it existed from the beginning. That in the south it received strength from that most dominical of all forces, the Roman, is most probable, but such could not have been organic; the Roman influence came through the Church, through the later contact with the continent and was not brought by the Saxons from lower Germany. The Danish chieftain established his by to all intents and purposes in quite as dominical a fashion as the Saxon his tûn, although it is true, as Domesday shows, that manorial growth was neither so rapid nor so complete in the north. What the measure of the Roman influence was we will not here enquire; the question is and always will be an extremely subtle one. We believe that it had a very important part in shaping the growth of the manor, but the theory that the villa which Fustel de Coulanges has so fully described in *L'alleu et le domaine rural*, or that which Mr. Seebohm has found existing on the continent in the fifth and sixth centuries, formed the basis of the Saxon manor we cannot accept with any more readiness than the conclusion that the tribal community of the Celts formed such a model. Had the Saxons fitted themselves into the Roman shell they would have done so immediately, that is, within the hundred years following the settlement, and would then, as early as the

earliest evidence, have reproduced all the conditions of the *Rectitudines*, five hundred years later. To believe that this was the case seems to us to be taking greater liberties with the early testimony than we are in the least warranted in doing. We cannot mass the scattered evidence of this long period of history and apply it to any other time than that to which it chronologically belongs. There is now a very general agreement that a seignorial head existed from the beginning, not as an equal but as a chief, but this is very different from saying that fully developed manors so existed. The impetus gained from the method employed carried Mr. Seebohm safely over these earlier laws.[1] Approaching the subject by the opposite method we find his conclusions at fault. The manor grew; it did not spring ready made from the ruins of the Roman occupation.[2] The origin of the state cannot be based upon any purely legal theory: so the origin of the manor was no single transforming act. The tribe-state was nothing more than the tribe-people taking on gradually a political form. It was not a conscious political form. The manor did not become at one stroke a conscious feudal institution. Such considerations show the futility of the extreme Roman theory; they give free room for the entering in of Roman influences, defining and hardening the growth.

We have already assumed that the larger part of the composite group was originally either, (1) the community of free

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[1] "The investigation 'from the known to the unknown,'" says Professor Vinogradoff, "has its definite dangers against which one has to be constantly on one's guard: its obvious danger is to destroy perspective and ignore development by carrying into the 'unknown' of early times that which is known of later conditions." *Villainage*, 38.

[2] This absence of the conception of growth has led Professor Ashley to make this somewhat remarkable statement: "We can hardly suppose that free English warriors would have settled down at once as tillers of the soil, toiling half the days of the week on land not their own." Introduction to Fustel de Coulanges, *Origins of Property in Land*, xxxvii.

kinsmen, themselves perhaps the owners of slaves, although it is presumable that the greater number of the latter must have been in the chief's tûn; (2) the Celtic communities in the west and north, which may have been incorporated into other agricultural groups or have fallen within the allotment or grant of a Saxon eorl or thegn; (3) free communities which may have been similarly incorporated through a failure of their kindred chief to maintain pre-eminence, or through the absence of such head; or (4) agricultural communities which perhaps by slow accretion formed themselves about the tûn, or by, or monastery created within the waste or forest.

Allowing the possibility of such combinations, we may draw some conclusions regarding the steps which led to manorial growth. We see no way to avoid the conclusion, Mr. Seebohm to the contrary notwithstanding, that the bulk of the members of these agricultural communities were freemen, possessed of that liberty which was hedged in by more laws than we know of to-day, laws of environment, of superstition, of custom, of blood and of respect for military prowess. Such influences were in the main mental, moral, religious and economic rather than physical and political, for they made the primitive Saxon a slave, not to a person, but to his ignorance, his fears and the necessities of his life. The so-called degradation was in the main jurisdictional and economic. Politically the freeman did not cease to be a freeman, although it is not easy to define freemanship at this time. He did not have full freedom of movement, nor of contract, nor was he a free landed proprietor; but these were chiefly economic losses, not political. The Saxon ceorl was not barred from rising out of his position to any office in the state, though economic reasons in time increased the difficulty of so doing, because this was opposed to the interest of the person to whom he was economically subject. It will be seen that once given jurisdictional and economic subordination, political and physical subordination will tend to follow in their train. This will account for the fact that political disability is incident to villeinage, but not to

ceorlhood. This may be the more clearly brought out by a brief résumé. Without concerning ourselves with the poets, where the importance and independence of the ceorl is unmistakable, we may notice what the laws tell us of his status. Under Aethelbirht the ceorl was a freeman,[1] had under him servants and dependents,[2] and had a 'mundbyrd' reckoned at so much.[3] Under Hlothær and Eadric he was still a freeman,[4] possessed a 'flêt,' which shows that he was a householder,[5] and his political status was indicated by the right of acting as witness.[6] Under Wihtræd we are indirectly told that the freeman was folk-free, could possess land and a wergeld and go where he wished[7]; we also learn that he had property[8] and could clear himself by the oath of four other ceorls.[9] According to these provisions of the Kentish law, we see that the ceorl was certainly not a serf, and we have no reason to suppose that he was even economically dependent; he was a member of the 'folc,' himself a 'hlaford'[10] and land possessor. In Wessex, however, a change has already taken place, two hundred years after the settlement, but the ceorl was still politically free; he was in service to a lord[11] but he still retained his freedom; he was beginning to accept a yard land, to pay gafol and to do work,[12] which we have no special reason to suppose was the technical week-work, of which we have the next mention two centuries later, yet at the same time he had his house,[13] his enclosure[14] and his fenced meadow.[15] He could also bear arms and do military duty,[16] and he enjoyed the same privilege in regard to compurgation as the man of gesithcund rank.[17] During the next interval of two hundred years the steps in economic dependence were well advanced, and the

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[1] *Aethelbr.*, 24, 27, 29, 31. [2] *Aethelbr.*, 16, 25.
[3] *Aethelbr.*, 15. *Hlot. and Ead.*, 14. [4] *Hlot. and Ead.*, 3, 5.
[5] *Hlot. and Ead.*, 11, 14. [6] *Hlot. and Ead.*, 16.
[7] *Wiht.*, 8, 11. [8] *Wiht.*, 12. [9] *Wiht.*, 21.
[10] If the ceorl possessed 'hlaf-æhte' he must have been a 'hlaford.'
[11] *Ine*, 3 § 2. [12] *Ine*, 67. [13] *Ine*, 6 § 3, 30.
[14] *Ine*, 40. [15] *Ine*, 42. [16] *Ine*, 51. [17] *Ine*, 54.

position of the ceorls on the estate at Hysseburne shows that on one royal estate at least the enrollment of services has begun, an enrollment which may have been rendered necessary through the contemplated transfer of the lands, although such enrollment could not have been new. Yet, while there is here indicated a subordination of the ceorls upon a manor of King Aelfred, his laws show clear indications of the freedom of the ceorl, in his right to choose a lord,[1] in his possessing all privileges of the law in matters of trespass and attack, and in his being placed upon a footing with the thegn, ealdorman, bishop and king in having 'wer' and security of home.[2] Traces of this freedom can be seen in all the laws of the tenth century, and, last of all, in the *Rectitudines* itself gebûr and cotsetla are distinctly declared to be free. That upon which we would lay chief stress, and which Mr. Seebohm seems to have forgotten, is that the ceorl, the gebûr, could be politically free and legally recognized, and at the same time be placed economically in a dependent, almost servile, position.

Let us now consider in detail the two processes which, as it seems to us, have had the most vital influence in bringing about such a change in the status of the ceorl, as is seen in the villein of Domesday and in the law of the twelfth century; the first process producing the predial subjection, the loss of freedom included in the obligation to labor for another; the other, the growth of the jurisdictional supremacy of the chief, the lord, the thegn, to whom alone the manorial jurisdiction applies, for that peculiar power and privilege which we call manorial was centred in the lord, spreading thence over the 'tûnscip' or vill and in no wise springing out of the village community itself, whatever may have been the original organization of the latter.

In the absence of any adequate state protection, in that transition period from tribalism to organized political life, certain needs arise which tend to give form to the relations

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[1] *Aelf.*, 37.

[2] *Aelf.*, 10, 11, 25, 35, 39, 40.

between man and man. This relation is not incident to Romano-Celtic, and Romano-Germanic civilization only, but it is to be found in regions so distant and among peoples so diverse as to lead to the opinion that it represents a phase in social development in many countries[1] and was not the outworkings of the peculiar institutions of any one. The Feudalism of history shows the influence of the Roman law and custom, but the principles of feudal development were not derived from any outside source. The need of protection and of the means to support life was common to such a transition period when safety lay in the strength of the sword and not of the state, and when the chief means of sustenance for the body of tribesmen were gained through the tillage of the soil. This condition was as true of Anglo-Saxon Britain as it was of the Frankish lands. It is probable that clientship in some form had become established as early as the laws of Kent and Wessex. It is more than reasonable to suppose, from the nature of the conquest and the frequency of the inter-state forays, that in this early period the agricultural life had become an unsettled one; that the customary necessities for ploughing, tilling and harvesting, such as cattle, tools and seed, upon which so much depended and which became a main object in the plunder of the time, would form a most precarious capital and would tend more and more to an unequal distribution. Not only would the need of protection be a cause leading to the dependence of the ceorl, for which protection man looked to man not to the state, but the absence or loss of capital necessary to till the village lands would cause the same ceorl or kindred body of ceorls to turn for aid to a superior, who had become such, either from a pre-existent position of headship, from greater wealth in cattle, from the authority conferred by a growing royal administration, or from all three combined. That this is not a mere

[1] Germs of a feudal development can be seen in Ireland, Russia, Persia, among the old Goths, the Mohammedans, Japanese, etc.

conjecture we know from a wide prevalence of the custom, nowhere more clearly brought out than in the Brehon laws, upon which Sir Henry Maine has laid so much stress, and the meaning of which Mr. Freeman recognizes in the quotation already made. The cow-lord or Bo-aire chief supplied to needy members of the tribe a certain 'settene' or equipment, consisting of draught animals, such as horses or oxen, in which the latter predominated. For this outfit the 'saer,' or free stock tenant, gave an annual return of one-third of the stock furnished. But as it would presumably happen that a return in stock could not be made, the chief would accept in lieu thereof or in addition manual labor, such as the erection of a 'dun' fort or the reaping of the harvest or in some cases, military attendance upon the chief. In addition the chief received a food-rent and was entitled to full homage from the free tribesmen. This relation was, however, limited to seven years and no one was compelled to assume it. The relation between the chief and his 'saer' stock tenant was carefully regulated by law, and when the chief was the Flathe, there arose the *corus flathe*, which contains the suggestive statement that one of the obligations was to furnish a working man to the chief for every 'samhaisc' heifer which the chief had given as stock.[1] Thus in the case of the 'Saer-Céile or free-stock tenants, we find only a mutual contract, breakable at any time by either party under certain conditions; but at the same time we see how one free man could enter into obligations to another, obligations which could be met in the only manner known to the time, the furnishing of gafol, work and military attendance. If, however, the stress of need became greater, a new and more burdensome relation might be entered into, wherein the tenure established became permanent and an increase in stock was given, for which a food-rent or gafol—to use the Saxon phrase—was returned. The tribesman might enter directly into this relation or he might

[1] *Ancient Laws of Ireland*, III, 19, note 1.

first become a 'saer' stock tenant, and then, if through disastrous harvest or other cause he was unable to return the stock at the end of the seven years or preferred not to do so, he could transform his 'saer' stock tenancy into 'daer' stock tenancy, a condition which Dr. Sullivan says resembled privileged villeinage or villein socmen of feudal times, a class whose services were base but fixed and certain, though established by custom only. In the case of the 'daer' stock tenant the food payments were recorded in most exact detail, together with penalties for neglect or carelessness. Through 'daer' stock tenancy a free tribesman could descend to a position of complete economic dependence. The main difference between the two forms of tenancy seems to have been that, in the one case ('saer' stock), the tribesman, free and possessing stock of his own, simply added to this that which the chief furnished him, with both of which he cultivated his share of the tribe land; in the other case ('daer' stock), the tribesman was wholly indigent, possessing no other stock than that which the chief gave. Yet, though a bond tenant as the name implies, he stood higher because of his origin than those of foreign or other tribal stock, the 'daer botach' tenants, to whom the chief granted not only stock but land, thus placing them in a position of full villeinage.[1] Similar to this process which touched the economic freedom of the 'Céiles,' was that which in Welsh law reduced the free tribesman, 'boneddig,' to a position dependent upon the Uchelwr, the territorial lord. These native free Cymri formed the class of 'aillts,' tenants to the Uchelwr, and although there is no such definite mention of the process by which the dependence was brought about, as in the case of the Brehon laws, yet it seems reasonable to suppose that it was not essentially different: the 'boneddig' would correspond to the 'Saer Céile,' the 'taeog' to the

[1] *Ancient Laws*, II. Preface, Senchus Mor., 195–201, 207, 211, 219, 222–341. Sullivan, Intr. to O'Curry's *Lectures*, clxxxix. Skene, *Celtic Scotland*, III, 171–176. Maine, *Early Hist. of Inst.*, 152–162.

'Daer Céile.' In later times something similar is to be seen in what is known as the steel-bow tenancy, by which tenure the lord furnished cattle and outfit, although it had rather the form of a lease than a dependent tenancy.[1] Without going more deeply into a discussion of the process, as governed by Irish and Welsh law, we seem to be at least warranted in the inference that so far as the evidence at our disposal is concerned there is no reason why such a process, similar in regard to the general features, should not have been taking place on English soil. A form of clientship had already been entered into as is clear both from the presence of 'mundbyrd' in Kentish law,[2] and from the fact that freemen, both of gesithcund and ceorlish rank were subordinate to a lord (dryhten), a relationship which is declared to be according to the old right.[3] Allowing that it were possible for the members of the kindred community still remaining free, to enter into a contract which became eventually a permanent tenure, there were still other methods by which the chief or lord might increase this number of dependents. If, as we have already supposed, he had originally a larger share of the community lands he might well increase this title, in the waste either through grant or aggressive extension; in the community by escheat, through the death of freemen, either in war or at home with default of succession, through vacancies created by the departure of a freeman from one estate to another or through forfeiture arising from a reduction to slavery. In any of these cases the authority of the head as administrator might be easily transformed to the authority as owner. The communal character of the village holdings, the fact that there was no conception

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[1] Lewis, *Anc. Laws of Wales*, 23–30. Skene, *Celtic Scotland*, III, 199, 200–207, 242 (for steel-bow tenancy).

[2] *Aethelbr.*, 8, 15; Stubbs, *C. H.*, I, 193; Fustel de Coulanges, *Origines du système féodal*, 249, 250, 269.

[3] *Wiht.* 5. The use of 'dryhten' instead of 'hlaford' (as in *Ine*, 3, 3, § 2), may indicate that in Kentish custom the relationship was entered into for protection not for support.

of individual ownership even in the strips which the ceorl cultivated, and the fact that land was comparatively unimportant and cheap, as compared with the instruments for tilling it, would render the ceorl's grasp upon a particular piece of land very uncertain. In order to fill these vacancies or to increase the numbers of those tilling the lands additions would be sought for not from within but from without. The Irish Flathe not only gave stock and land within the tribe but he called stranger septs, settling them upon his waste lands in the same tenancy as that of the Saer and Daer Céiles, of his own tribe.[1] It is neither difficult nor incongruous to conceive of a similar process taking place on the lands of a thegn, who had received a grant from the king, either in connection with an old community or a new body pushing out into the uncultivated lands. But besides the settlement of kindred groups upon the lands of another, it was a common act among the Celts for the lord to seek single tenants from without, from other lands and other peoples; to receive under certain conditions and after a certain time strangers or refugees, giving them protection and an allotment in the field or the waste land. Such were termed 'fuidhirs' and 'bothachs' in Irish law, 'alltuds' in Welsh, and though usually of foreign, that is, non-Celtic stock, yet it was possible for a person, passing from one part of a country to another, settling down upon the lands of another, to be treated as an 'alltud,' receiving an allotment in the village fields. Under Welsh law the 'alltud' who continually changed his settlement was not under bondage, but if he remained and his posterity to the fourth generation, then the Uchelwr became the proprietor of the great grandson forever.[2] When therefore we find such processes, such changes of economic status, taking place among a tribal people, and when we know that in the history of social

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[1] *Ancient Laws of Ireland*, IV, 39, 387. Skene, *Celtic Scotland*, III, 173–175.

[2] Skene, *Celtic Scotland*, 199–205. Lewis, *Ancient Laws*, 28–39. *Ancient Laws*, Bk. V., Ch. II.

and economic growth such processes can be traced very widely as forming a necessary phase in the transition from tribalism to settled political life, may we not, in the absence of more adequate explanation, at least advance the hypothesis that the Anglo-Saxons, receiving influence from, though seldom consciously modeling themselves after, the Roman and Celtic custom, passed through the stage which the Brehon law makes so clear to us, and laid the foundations for a native feudalism. The feudalism of the Anglo-Saxon laws is nowhere so thorough nor so well defined as that of the continent from the tenth to the twelfth centuries. It is lacking in many essential elements, though at the same time tending toward a greater uniformity and elaborateness; a feudalism standing half-way between that latent in the Celtic law and the established feudal system of the continent. It is not by any means easy to harmonize the laws of Kent and Wessex with Mr. Seebohm's theory. They can be more satisfactorily understood on the supposition that the economic dependence of the ceorl was in process of development than on the supposition that the ceorl was the member of a village in serfdom, for there is the union of legal and physical freedom with service for another. The freeman, still remaining a freeman, was under a lord, giving gafol and performing work. He was furthermore forbidden to leave his lord. The presence of such a law shows that we are dealing with a custom, and from the reiteration in different forms in later laws, we are to presume that the ceorl continued to move from 'scîre' to 'scîre,' notwithstanding this injunction. Economic necessity would tend more and more to bind this formerly free-moving man to a continuous labor for the same lord, for the law does not appear to require more than that the gebûr adhere to the lord whom he was then serving.[1] It would seem strange for the hiring of oxen by one ceorl of another to have become so common in the village in serfdom as to require a law to regulate it, such freedom of contract hardly

[1] *Ine*, 39.

seems consistent with servitude.[1] As to the provision regarding the agreement for a yard-land, there is nothing in it which warrants Mr. Seebohm in saying that it represents what the manor to all intents and purposes was afterwards. He has inserted a tenth and eleventh century meaning into the seventh and eighth. The community of Ine's laws is a remarkably well advanced one, but there is not a single indication in all these laws of ceorlish serfdom. We have seen the Irish Céile taking stock and arranging for work and gafol; the law of Ine shows much the same. The ceorl or gebûr is a freeman entering into an arrangement with a lord, by which he pays gafol for land allowed him in the open field. But it seems that lords had been taking advantage of the position of the gebûr to require more than the simple gafol, to force work from them on the demesne, the lord's own share; evidently this encroachment upon the gebûr's right has become so common as to call the attention of the king and his Witan. If not why should the law have been passed? It was decreed that in cases of such seignorial usurpation the right of the gebûr should be protected and that he might refuse to do the extra work, unless he received a 'botl,' a house to dwell in, in addition to the acres; even if this were not done and the gebûr refused to work, the open field strips could not be taken from him so long as he paid his gafol. Surely if this indicates anything it indicates that the lords were taking advantage of this economic dependence of the gebûras to such an extent that the law was obliged to step in and protect them. We have here, therefore, nothing more than the regulation of a custom, now common, of furnishing to anyone, who desired protection, whether native or foreigner,[2] a share in the old acres or strips in a newly opened shot or furlong. On the estate at Hysseburne, in 900 A. D., after four centuries of most import-

[1] *Ine*, 56.

[2] For the presence of foreigners, notably landed Welshmen, *Ine*, 20, 23, 23 §3, 24 §2, 32.

ant changes, we are introduced to the first example of enrolled services. Such enrollment does not appear to be new: the gafol paid for the yard-land in Ine was registered; Aelfred's law mentions the 'bold getæle,' which clearly contains the idea of enrollment of services. But the existence of such indicates nothing definite, and here in the oldest custumal, which we have, we find a looseness of expression worthy of notice. First, the land held by the ceorls is not called the yard-land, but the family holding, the 'hiwisc.' The ceorls may be legitimate descendants of an original tribal community, whose lord is the king. There are no indications of newly introduced gebûras, indeed the term 'gebûr' is not used at all, the members of the community are simply ceorls. Then, too, while that which is gafol and gafol work is definitely stated, yet the time when the labor is to be performed is left open, to the free will of the ceorls, to be done in their own good time. The week work is equally indefinite, it has not become fixed; the ceorls are merely to do that which is expected of them, according as directed. There are no extra services, no precations. On the estate at Dyddenham, the process of setting land to gafol is clearly stated; that custumal shows us that new lands are constantly cleared, divided and set out to tenants.

In both of these instances two points are to be noted. These manors are both royal manors, the one of Aelfred the other of Eadwig, and, if we may draw any inference from Celtic custom, feudalization would be more rapid there than elsewhere, because the 'saer' and 'daer' stock tenant was obliged to take stock from the king, but need not from the Flathe or Bo-aire chief. Then, furthermore, there can be little contradiction of the statement that, because the custumals at Hysseburne and Dyddenham and the *Rectitudines* are our only evidence, we are therefore dealing with material which shows us a high degree of continental influence, brought in through royalty and the Church. Such influence may be seen, for instance, in the form which the relation between lord and

ceorl took; in its likeness to Roman custom; in a more rapid fastening upon the gebûr of the week-work, and the precations; and in the early reduction of this relation to writing. This will go far toward explaining the similarity between the continental system and that recorded in England during the Anglo-Saxon period. It will not, however, satisfy us that there were not, in other parts of England, all gradations of economic dependence, from that closely analogous to the Celtic system already noted, especially in the north and southwest and the west midland, to that which has a distinct Roman tinge in the south and southeast. It is hardly within our province to examine into the minutiae of this arrangement. If Mr. Seebohm's chain of evidence discloses, as it certainly does, a more rapid feudalization, it by no means follows that a test made with what material there is for other parts of England would show the same. That test must be made before the question can be definitely settled, or the problem even approximately solved. All that we can feel confident of at present is that the economic dependence was not borrowed but was of native growth.

Let us turn for a closing word to the second process, of no less importance than the first, the development of the manorial jurisdiction. It is at once evident that until this question shall become the subject of a special and critical examination on the part of those competent to express an opinion, any treatment must be largely speculative. In determining those causes which ultimately brought the free tribesmen to bondage, we believe that this will stand as an equally influential factor beside the economic, and that the two combined will go a long way toward determining the rise of the lord of the manor. Trace back the manorial court as far as we may—and it seems probable that this can be done to the beginning at least of the tenth century—and we find it to be a court held in a manor house with the lord at its head. This court represents a jurisdictional authority, derived not from within but from without. In the entire absence of knowledge regarding

the village môt, the opinion has become prevalent that the village môt was not a court but that the lowest court was that of the hundred. Professor Maitland, finding it difficult to conceive of a 'village community' worthy of the name which had no court of its own, has propounded[1] the rather novel suggestion, based upon a study of the map of England, that the vill of ancient times was originally a tract as large as the hundred,[2] and that the court of the hundred was originally the court of the vill. If this be true then we believe that early England will show instances where the tribe-state was so small as to be composed of but a single community and where the folc môt would be to all appearances the village môt. In either case, however, the hundred court might still be the lowest court. May we not suggest that it was by devolution from the hundred court of jurisdictional authority to the head of the local agrarian community, to the head of a clan, which as a kindred organization may have included more than one village group within its authority, or to the landed gesith or thegn, which made possible a more rapid extension of manorial lordship. Sir Henry Maine has noted some such process in India, where he says that in the headman of the community there were vested certain judicial powers, mediating in disputes, interpreting custom, and keeping order, as well as a regular jurisdiction confided to him by the British

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[1] *Archæological Review*, IV, 234-235.

[2] "What is the size of a hundred? The size of a hundred, as it has come down to us, may vary from 2 square miles to 300. But it is well known that the large hundreds, generally speaking, have all the appearance of being more modern than the small hundreds. It is to those counties that were the first to be settled by German invaders that we must go for our small hundreds, Kent, Sussex and Wessex. The Kentish hundred is quite a small place; there are several instances in which it contains but two parishes and, therefore (true for Kent) but two vills; indeed, if I mistake not, there is a case in which the hundred contains but one parish and another in which it contains but a part of a single parish. Then there are many hundreds in England which hold but six, five and four parishes." 239.

government.[1] It is not difficult to conceive that in England with the growing power of the king, and the need of a more effective local administration, the head of the community or clan group would be invested with jurisdictional powers, which would give him a certain judicial character, of a nature similar to that conveyed in the feudal immunity. Whether such came from the king or from the hundred court is difficult to determine, but some such step would explain one fact regarding the manorial system; the fact that the manorial boundaries do not always coincide with township and parish boundaries. The only satisfactory explanation of this is to derive the jurisdictional authority from without, to vest it in the person of the chief, gesith or thegn, without regard to the agricultural group of freemen, and to relieve his powers from a necessary limitation to the bounds of the village itself. Thus the village would form a political unit independent of the manor, while the manor would represent a jurisdictional rather than a territorial or political unit. Such power vested in the lord might very readily, in process of time, increase the means by which the lord could extend his control over the lands and services of the agricultural group, for the possession of such power would tend to disable the ceorl against his agricultural superior, and though he were still personally free in law, yet in an action between himself and his lord or in a case of aggression injurious to the ceorl, the privilege would all be on the side of the lord.

But this is, until some evidence be brought forward to support it, largely conjectural. So far as we can form an opinion

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[1] *Village Communities*, 154–156. Maine knew of no well-authenticated example of a community exercising absolute liberty of choice in electing its headman. "Sometimes the office of Headman belongs absolutely to the head of a particular family; sometimes it belongs to him primarily; sometimes there is a power of choosing him limited to privileged households." Many of these great proprietors, he thinks, were chieftains of clans with hereditary influence. We cannot reconcile this passage with the village community theory.

at present, it would appear to be this very jurisdictional authority combined with the economic powerlessness of the community of freemen, the absence of any absolute conception of property, such as the chief would have over his own domain or the thegn over the land granted to him, and the military ascendency which the warlike leader would gain during a period of conquest, that rendered possible the growth of manorial and feudal headship on the one side, and of the dependence and disability of the free tribesmen on the other. In one conclusion we have confidence, whatever may be the final verdict upon the subject of which this essay treats, it will not be in favor of either an original servile condition for the bulk of the Saxon folk, or a condition of unmodified liberty and democracy.

We may now turn from the discussion of what is at best an intricate problem to the examination of the manor itself, its structure, arrangement and internal economy. By the year 1000 A. D., the local life of England was approximating the manorial form, though we know little of this life, save in the south, before Domesday. The following chapters are, however, an attempt to bring together into compact form such information as Saxon literature can furnish upon the subject.

CHAPTER I.

The Lands of the Manor.

Before entering upon a description of the manor itself, it will be necessary to take a rapid view of the customary law of the Anglo-Saxons, so far as it related to their system of land tenure. In this system there was to be found no definite legal scheme, no development of general principles applicable to all cases and instances. Manors similar in form and organization might stand in different relations to the state and the king, might be burdened with different obligations. Although the old English land system was in the main that of the old Germanic law, it was gradually overshadowed by the Roman ideas of property, before which the customary law, tenaciously lingering in local life, was obliged to give way. Since, however, in Anglo-Saxon times custom was still dominant and in consequence of this the land system, based on no logical scheme, was of necessity complicated, students have been a long time unfolding the meaning of the nomenclature which the laws offer.

At present, however, nearly all authorities are agreed and there is little dissent from the scheme now accepted. The parcels of land, homesteads, arable land and wastes, which lay scattered over the country, have been divided according to the origin of the tenure into two great classes;[1] first, land still held by virtue of settlement or conquest, rights to which rested on custom; and second, lands held by virtue of a grant

[1] Lodge, *Anglo-Saxon Law*, 57. For a criticism of the method which Lodge has employed, see Pollock, *Land Laws*, (1883) Appendix B. 190–196.

or deed called in Anglo-Saxon a 'bôc,' book, or written instrument. Possession of this kind supposes acquisition from a previous owner, the king, or as is more commonly thought, some other possessor, a member of any *comitatus* whose leader was not the king, who may have held it as a share of the conquered territory or have acquired his right to it in any of the original ways, by settlement, gift or redemption.

Land of the first kind, that is, such as originated in custom, has been subdivided into three classes; family land, common land and folcland. The family land is not unusually expressed by the term alodial, although Professor Pollock prefers the term heir-land, inasmuch as there is no reason to believe that *alod* was a pure English word at all; in all probability it was introduced by the Normans.[1] Such land, as the land of the family, formed the basis of the homestead and has been generally thought to mark the origin of private property in land. Maurer's definition is sufficiently explanatory; family land was "that land which at the period of the first settlement, either by means of a formal distribution or because of a customary right of occupation fell into the private possession of members of the same family."[2] Such land is the 'yrfe'- or 'erfe'- land of the documents, that is the hereditary land, land which could be passed down in the family but could not at first be alienated.[3] As the family tie began to break down alienation under certain conditions crept in, conditions that would vary as did everything that was based on custom. Land of this nature was unburdened and untaxable[4] and it seems probable that it continued to exist as such

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[1] Pollock, *Land Laws*, 191, and note 1. On the *alod*, see Fustel de Coulanges, *L'alleu et le domaine rural*, 152–153, 155–156, 161.

[2] Maurer, *Krit. Ueb.*, I, 96.

[3] *Heredium* in the Twelve Tables is the farmstead, the garden about the house. Bruns, *Fontes Juris Romani Antiqui*, 25, Tab. VII, § 3. Mommsen, *Römisches Staatsrecht*, III, 23–24.

[4] Burdens were imposed upon the person not the land, as is evident from the fact that the *trinoda necessitas* was not common to all land but to all

until a late period of Saxon history, perhaps until the Norman Conquest.[1] Without pressing the analogy too far it is helpful in understanding the nature of this tenure to compare the 'erfe' land, as based upon no grant or written document and deriving its title from the necessities of settlement, to the homestead allotments in our New England towns. In the latter case, however, the tie binding the community was no longer a tie of real or supposed blood relationship, it was an economic and religious bond, for the land was divided according to the contributions to a common fund.

Land of the second class, common land, was not held by a single family but by a community; it may have been that portion of the district allotted or seized by the kindred group, which was in excess of its actual needs for cultivation and the establishment of homesteads. Much discussion has arisen regarding the exact relation of the community to this unoccupied land, and it has been assumed that the seizure of this land by the 'overgrown ceorl' was an important step in that encroachment upon the primordial rights of the community, whereby he ultimately became the lord of the manor. The writings of Nasse have proved conclusively the existence of such common lands within the 'tunscips,' consisting of pasture and forest. Such 'tunscip' lands are to be kept sharply distinguished from the common meadow mentioned in the laws of Ine, which was not for the use of all but only of a limited number.[2] In examining the relation which the community originally bore to this land, we have unfortunately nothing upon which to base an opinion except analogy and a few lingering traces. These, however, seem adequately to prove a distinct recognition of the right of common enjoyment and usage in such

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people. Maurer, I, 98. Lodge, 78. The *Rectitudines* says that "the þegn shall do three things for his land," but the phraseology here is somewhat ambiguous and the text is of a comparatively late date.

[1] Pollock, *L. L.*, 192.

[2] Nasse, *The Mediæval Community of the Middle Ages*, 27–30.

parts of the land as were needed for daily use. But the fact of a recognition of ownership is not so clear; it is not so certain that at any period such lands were looked upon as the property, in the legal sense, of the body of men who formed the community group. This point is important, for if it be true that the members of the community had no very precise conception of property in the abstract, and we have yet to see any adequate proof that archaic society conceived of property in that sense of the word, then it would be a far less difficult matter for the title to such lands to pass into the hands of a superior, an eorl, gesith or thegn, although at the same time the privileges enjoyed would continue to survive. We would, in fact, see a growth parallel to that of the king's title to the uncultivated land of the kingdom.

In close connection with these common lands of the 'tunscip,' there has arisen the question regarding the so-called 'hundred'- land. There is no direct evidence for its existence. Nasse says that the growth of larger 'mark' associations comprising several townships cannot be maintained,[1] and such a corporate association is necessary for the holding of folcland by a 'hundred.' Maurer, who has drawn so largely on Swedish evidence, where the *härathsalmänningar* corresponds to what would be the common land of a 'hundred,' comes to the conclusion that there was no such land.[2] Earle, however, cannot accept Maurer's conclusion, and finds it reasonable to suppose that the 'hundred' held land, though he advances no evidence for his inference.[3] The existence of 'teothung land,'

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[1] Nasse, 28. [2] Maurer, I, 69.

[3] Earle, *L. C.*, Intr., liii. *Cf.* Stubbs, *C. H.*, I, 105, note 2. Lewis (*Anc. Laws of Wales*, 274–275), comparing the institutions of England with those of the Celts, finds reason for thinking that the 'hundred' gemôt had jurisdiction over the folcland within its boundaries, and therefore conjectures that the 'hundred' possessed land. He bases his statement on the laws of Eadward the Elder, II, §2, and fills out his argument with reference to the Welsh *cantrev*. In this case his argument wholly begs the question and Stubbs has already answered it in general terms. *C. H.*, I, 68.

the meaning of which is certainly obscure can hardly be considered satisfactory evidence upon which to base an argument in favor of the possession of land by a 'hundred. It is easier to follow Maurer than Earle and we see no reason for supposing that the 'hundred,' though a judicial unit, formed in any sense a corporate community. If ever as a tribe-district it had common lands such must have been absorbed into the folcland of the kingdom, of which it became a part, and would in all probability have come under the royal prerogative.

This same folcland forms the third of the varieties contained within the first class. The commonly accepted definition of this term, which has had many interpretations, is the simplest; it was the folk-land, the land of the people in their collective capacity as the State. It was the land left to the nation after every man and community had received all that was desired. According to this view every possessor of family land had at least a theoretical right in both the common land of the community where he dwelt and the national land as well. This definition has not gone unchallenged and there is justice in some of the exceptions taken. Already has Nasse pointed out that over all the uncultivated lands except those held by the agrarian communities the king had a kind of head seignory. "In many title deeds the kings grant pasture, mast and rights of forest or uncultivated lands, and especially of woods, which were sometimes called king's woods, and sometimes common woods. There were also grants of rights of pasturage, which were to be exercised in common with the royal cattle, or which were limited by the pasture rights of the king. By the researches of Allen, Kemble and K. Maurer, it has been shown that it was in the highest degree probable that this uncultivated land, to which the king's right so generally prevailed, was the 'cyninges folc-land.' The king had the power to grant this land, still retaining its nature as folc-land, for the private use of individuals. . . . In details there is also a great deal which is uncertain and obscure; but the question as to the nature of the people's land is foreign to our pur-

pose, because, although as long as it was not granted and cultivated, its use by the neighboring inhabitants for wood and pasture, subject to royal regulation was in existence, yet its relation to a land with agrarian community and copartnership, was a very distant one."[1] There is much fruitful thought in this suggestion, but that upon which we would lay especial stress is the definiteness of the royal claim upon the folcland, and the indefiniteness of the popular claim. As has already been suggested in speaking of the common land there is danger of introducing a use of the word property which is something of an anachronism. The individual member of the community group had in common with his family clear conceptions of separate ownership in the land upon which the homestead stood and in common with the other villagers in the strips of land which he cultivated; he also had a clear conception of the concrete rights which he enjoyed in the uncultivated land and waste. But it is not so evident that he looked upon unused land as property, even the unused land of his own village and much less the great wastes beyond. On *a priori* grounds it is not difficult to picture the Anglo-Saxon freeman as a free citizen and suffrager with well developed ideas of prerogative and property: but such a representation does not well accord with the social and moral condition in which we know the ceorl to have been. Land is different from booty and this absence of a definiteness of claim on the part of the people themselves would render more simple the rapidity of the royal encroachment, just as it renders more easily comprehensible the rapid growth of manorial seignory. It would be vastly easier for the royal claim already so well established, as Nasse points out, to expand until the *terra communis* has become *terra regis*—and the existence of the fact would long precede the existence of the name—than for the people, with no clear conception of general property rights, conceptions which the Church, centred about

[1] Nasse, 28, 29.

the royal court, was making familiar through its connection with Rome, to maintain their prerogatives, even allowing that it was clearly understood what these prerogatives were. There is no clear evidence for the definition which has been given of folcland, yet so acceptable has been Allen's discussion[1] of the word, that there has been little desire of calling it in question and no good reason therefor. The two main supports for the interpretation given are, the meaning of the term folcland itself, and the fact that in order to alienate it the consent of the Witan as the representative of the nation was necessary. The fact that the Witan was acting as the representative of the nation is only conjectural though supported by the opinions of nearly all scholars.[2] A German writer has recently advanced an extreme and fanciful view regarding the meaning of folcland.[3] He asserts that there is no proof that the word 'folcland' had any such vague meaning as the "people's land" and that the theory that the consent of the Witan, as arising from their position as representative of the people, was necessary, is wholly untenable and stands or falls with the *markgenossenschaft* theory, which of course he does not accept.[4] He denies that folcland was ungranted land, and quotes Nasse's phrase "that its relation to the land with an agrarian community and copartnership was a very distant one." He considers the ungranted land to have been from the earliest times royal land and not people's land. Taking Beowulf as his guide, he finds that the kingdom in that poem was considered to be the 'ethel' of the royal house, from which the king, as the poem incidentably shows, made

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[1] Allen, *On the Royal Prerogative*, 136–152.

[2] Stubbs' opinion is positive and of the greatest weight. "But where folkland was turned into bookland, that is, where a grant was made by which the land given was released from the obligation of folkland and made alodial and heritable for ever, the consent of the nation the owner of the folkland was necessary." *C. H.*, I, 145.

[3] Hermann, *Die Ständegliederung bei den alten Sachsen und Angelsachsen.* In Gierke, *Untersuchungen zur Deutschen Staats- und Rechtsgeschichte*, XVII.

[4] Hermann, 135–6.

grants;[1] that in Bēowulf the word 'folc' invariably means not *populus* but *exercitus* and further confirmation of this meaning he extracts from the Anglo-Saxon laws.[2] Therefore according to this theory, we are not to interpret the word 'folcland' as a Teutonic expression for *ager publicus*, but as that land which was granted to the 'folc,' that is to those professional warriors, the thegn, gesith, geneât, who were always in military service and not so merely by reason of a special summons.[3] Thus folcland was not a general term for all unused land but a definite term applied only to land thus granted. While Hermann's definition of folcland has about it an air of improbability, yet his discussion may well call for a reëxamination of Allen's argument and a redetermination of the relation of the king to the unoccupied land. Can we feel certain that such land was at any time looked upon, in an abstract sense, as the property of the nation or have we drawn our conceptions rather from the parallel of later times. England of this period was not a paradise of yeomen. Palgrave says that the Anglo-Saxon law always supposes the existence of a territorial superior.[4] Is there not a danger of forcing into the period of no evidence at all too exalted an idea of the democratic individuality and collective importance of the Anglo-Saxon 'folc'? Such a conscious conception of national rights would hardly seem to find a place when the power of royalty and of manorial lordship began to develop very early through the stress of the military nature of the conquest, and when the rights of seignory began to extend over the wilds and wastes as the first step in the expansion of a nascent feudal supremacy.

In turning to bôcland, which forms the second of the classes into which Lodge has divided the varieties of land known to

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[1] *Ibid*, 137. Probably referring to *Bēowulf*, 2195–2196, 2995; *supra*, p. 50.

[2] *Ibid*, 138. Schrader says definitely that the people and the army were one and that the O. H. G. *folc* included both meanings, 399.

[3] *Ibid.*, 138.

[4] Palgrave, *Eng. Comm.*, I, 84.

the Anglo-Saxons, we reach a subject which has always been a matter of varied interpretation.[1] The view now accepted as the result of the researches of Allen, supplemented by Maurer and others, is that bôcland, as the word implies, was land held as private property under the express terms of a written instrument called a book. The essential points of this tenure were its nature as private property acquired through a written document, the fact that its name was derived from the document through which it had been acquired, and the fact that it differed from folcland as private property differs from *terra communis*. It is generally agreed that bôcland was property in full ownership;[2] that it was created from the folcland, as family land was, so far as it can be determined, never turned into bôcland;[3] that the 'bôc' was the outcome of church influence, whose enrichment and endowment were in the main the objects of all the early grants; that all grants which turned folcland into bôcland required the consent of the Witan, and, lastly, that although bôcland was private property it differed in one important particular from family land, it "was only held in exact accordance with the terms of the written instrument to which it owed its existence, and theoretically if not always practically any departure from the terms worked forfeiture,"[4] and in case of forfeiture the land reverted to the donor.[5]

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[1] Schmid gives the various interpretations which have been given of bôcland. *Glossar*, s. v. 'bocland.' Compare Stubbs, *C. H.*, I, 81, note 2. Maurer, *K. U.*, I, 108–109.

[2] Pollock, *L. L.*, 22–23. Earle, *L. C.*, Intr., xxii.

[3] Stubbs is cautious and does not positively say this, *C. H.*, I, 81, 144. Pollock does not see how heir-land could have been legally made into bôcland to any considerable extent, 192–193. It seems generally to be taken for granted, however, that such was the case, and Pollock discusses the question carefully in Appendix B, as against the view of Maurer, who agrees with Kemble in accepting a frequent transformation of family land to bôcland.

[4] Lodge, 109.

[5] *Ibid*, 111.

It is evident, however, that we must place a limitation upon the term 'full ownership,' for bôcland was burdened with obligations of which the *trinoda necessitas* was not in every case the only one. Maurer mentions two charters wherein the duty of sowing the lands of the grantor and of furnishing workers at harvest is expressly stipulated,[1] and the *Rectitudines* states that in some cases a number of duties arose at the command of the king.[2] But bôcland indicated a certain permanency of tenure, which must have been very advantageous, even though held for no longer time than the number of lives mentioned in the book. The preponderatingly greater number of grants were in practically full ownership, and where lives are mentioned it was clearly possible for a renewal to be obtained.[3]

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[1] Maurer, *K. U.*, I, 111–112. These were in reference to lands booked by Bishop Oswald in 963, *C. D.*, 508, 511. Similar limitations are occasionally found in royal and other grants, but were more or less frequent in ecclesiastical charters. Here may be noted the use of bôcland as the translation of *possessio* in the Saxon translation of Bede, *Eccles. Hist.*, III, 24. (Early English Text Society Publications). If we accept Fustel de Coulanges' method of exact interpretation, we would give to *possessio* the meaning which it had in Roman Law as distinguished from *dominium*.

[2] *R. S. P.*, 1.

[3] Hermann, in the work already mentioned, takes wholly new views of both folcland and bôcland. We are not sure that we always understand his line of thought, for he is at times very obscure, but a few passages will show the drift. "We shall be convinced that the laws, which my investigation exclusively touches, so far as they concern bôcland, treat it in fact as land from which service is required (*Dienstland*)," 134.

"I shall draw from the laws a further proof, namely, that by bôcland, that particular service land is meant which comes from the king and is transferred to the secular or ecclesiastical thegn as gifts for services rendered (*Dienstgut*)," 134–135. By *Dienstgut* Hermann seems to mean what in later times were called Honors; in A. S. 'âre' or 'land âr.'

"But the word took on a more precise meaning when it became the custom to grant heritable service land to secular servants of the king, and for the purpose of booking to them family land (familien fideicommisse) in the sense of *Aelf.*, § 41. We take the ground that to the royal thegns, besides the heritable service land there was granted lands not heritable,

From the point of view of origin the manorial estate could be classed as erfe-land, folcland or bôcland. The first, if the estate could trace its title back to the original settlement, and the second, if the territory upon which the estate stood had been granted by the king and Witan from the uncultivated waste, and if the thegn, the grantee, had there created a manorial estate. This process undoubtedly increased more rapidly as the king's claim upon the ungranted lands became more fixed and definite. Lands so granted became what is generally known as lênland, and the difference between this and bôcland would be, that in the former case the land at the death of the owner reverted to the state (or the king), in the other the land could be transmitted by will.[1]

The chief text upon which this conclusion is based is the will of Duke Elfred. "If the king will give the folcland in addition to the bôcland then let him have and enjoy it; if that may not be then let her [the wife or the daughter] give

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and that these are the two varieties of service land to which the laws refer where they distinguish between bôcland (heritable) and folcland (not heritable)," 135. At this point Hermann discusses the meaning of folcland already referred to, and then goes on to an examination of the evidence in support of his views. These conclusions seem to be based rather upon a jugglery of words, as is seen in the interpretation of 'folc,' than upon a true understanding of the nature of Teutonic institutions. Since arriving at the above opinion of Hermann's work, we have noted a similar view expressed by M. Monod, editor of the *Revue historique*. Speaking of another work of Hermann Monod says, "sa théorie m'a paru si obscure et si chimérique que je n'entreprends même pas d'en rendre compte." This applies exactly to the brochure from which the above quotations are taken.

[1] Lodge says that any land was bôcland, which was granted from the folcland for one life or more—for under Saxon law the tenant held for life and could not be driven from his holding nor his rent raised so long as he cared to stay. Therefore he divides bôcland into two classes. 1. That ordinarily considered bôcland, *terra testamentalis*. 2. lênland created by book. This would give two classes of lênland; *a*. booked lênland, that mentioned in the context. *b*. unbooked lênland, that held by a tenant on a manorial estate. The main point of distinction is that in lênland the owner and the possessor were different persons. Lodge, 86–87, 94–97.

him whatever she will either that land at Horsely or Langafield."[1] Besides indicating that folcland could not be transmitted by will, this passage seems also to show that folcland could not pass into the hands of a woman, who would be unable to perform the duties demanded of holders of lands of this nature.

It is possible that an interesting introduction to the so-called "Blooms of King Aelfred," an abstract translation by some Anglo-Saxon writer (possibly but not certainly Aelfred) of St. Augustine of Hippo's *Soliloquia*, relates to the formation of new manors upon the folcland. If so it gives us an insight into the simple and primitive methods of house-building and the formation of a thegn's tûn. The tone of the passage is decidedly undominical and humble, and this may be due to the fact that the account is à parable and contains a fruitful moral lesson. The writer tells how he gathered from the forest all the material used in house-construction; timber and shafts and helves for tools. On each tree he saw somewhat of that which he needed at home. For that reason he advises each one who can and who has wains "to go there also, and provide himself with fair rods, that he may entwine many neat walls and many an excellent house set and fair tûn build (tymbrian), where he may dwell with his family (mæge) with joy and ease, both winter and summer, as I," says the writer sadly, "have not yet done. But He, who has instructed me and whom the wood delights, may so do that I may live more easily both in this temporary log house on lænland (lænan stoclife),[2] so long as I be in this world, and in the eternal home, which He has promised us" through the holy

[1] And gif se cyning him geunnan wille ðes folclondes to ðæm boclonde, ðonne habbe and bruce. Gif hit ðæt ne sio, ðonne selle hio him swa hwaðer swa hio wille, swa ðet lond on Horsalege, swa ðet on Leangafelda. *C. D.*, 317. Earle, *L. C.*, 149–152. Thorpe, *Diplomatarium Saxonicum*, 482. Birch, *C. S.*, II, 196. Compare Hermann's comments on the entire passage, 143–144.

[2] On 'stoc,' see Earle, *L. C.*, 463–464.

Fathers. It is no wonder, the writer goes on to say, that after one has thus labored both in the loading in the wood and in the building of his 'botl' "that each man should desire, after he has built a 'cotlif' on his lord's lǽnland with his grace, to rest there awhile and hunt and fowl and fish, and in other ways toil upon the 'lǽn,' either on sea or on land, until that time come when he may earn bôcland and an eternal inheritance through his lord's mercy. So may he do, the bountiful Giver ('giofola'), who controls either these temporary log huts on lǽnland or the eternal homes." This is, of course, but a parable. The lord is God, the lǽnland this earth, and the bôcland the heavenly home, which is permanent and eternal. The wood where the materials for tools and buildings are found is the Bible and the other sacred books of the Church, from which can be gathered material for building a spiritual house wherein the soul may rest undisturbed, always continuing, however, eager in good works and toiling to please God until as a reward for duties well done He shall in his mercy change the temporary earthly home—'thissa lænena stoclife'—for one that is eternal—'thara ecena hama.' Mr. Seebohm, in commenting upon this passage, calls attention to the absence of the definite statement that the lord would turn this holding of folcland, with its greater burdens, into one of bôcland with its fixed and permanent title, but, as he rightly says, such a suggestion would have just overreached the point of the parable, inasmuch as the eternal home is not a free gift but the reward for a life well spent.[1]

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[1] Seebohm, *V. C.*, 170-171. We are indebted to Dr. James W. Bright, of Johns Hopkins University, for the use of his transcription of the original manuscript. There can be little doubt that Mr. Seebohm is right in his interpretation of this passage. It refers to a new estate upon folcland and not to the hut of a cotsetla upon the land of the manor as thought Kemble, *Saxons*, I, 312-313. The difficulty seems to turn upon our construction of the word 'cotlif,' which from its form might well apply solely to the cot of a tenant. But such interpretation is not supported by other evidence. In the *Saxon Chronicle*, 963, Æthelwold, as bishop of Winchester, rebuilt

The rewarding of military service with grants of land is first made evident from the letter of Bede to Bishop Egbert,[1] but we have no way of determining how early this practice came into vogue; few grants to *princeps* (ealdorman, according to Bede's translator), *comes* (gesith) and *minister* (thegn) are found in the eighth century. Yet such grants must have begun early, and Earle says that the scarcity is due rather to the fact that monastic houses had better means for preserving their charters than had the *comites* or *ministri*, and that the lay grants were quite as numerous as the monastic. In fact he inclines to the opinion that the monastic grants which we now have were not the types, but that we are rather to consider them "as imitations and a variety of those which were made to lay hands."[2] What were the especial burdens to which folcland thus occupied was liable we have no clear means of determining. In form and general appearance a manor on folcland and a manor on bôcland differed not at all, so far as we can judge. Each was of the same or similar internal con-

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Ely and "bought there many cotlifs from the king and made it (the monastery) very rich." Here the meaning is clearly estates, whole manors. In the *Saxon Chronicle*, 1001, the Danes "burned the hâm at Peonho and at Glistine and also many good hâms which we cannot name." Thence they went eastward and "burned the hâm at Wealtham and many other cotlifs." Here the word is synonymous with hâm, which the Latin translates *villa* and *prædia*. This led Somner to give 'cotlif' the meaning of a little village (*villulae*, *Vocab. Lat. Ang.*). Further support is found in two charters one of which was not known to Kemble. (Earle, 302.) In the first the king grants the cotlif of Staines (cotlif stana), that is the manor of Staines. In the second (*C. D.*, 829; Earle, 340) the king grants two cotlifs named Pershore and Deerhurst (cotlife Perscore and Dorhurste) to St. Peter's, Westminster. In these two instances there can be no doubt of the use of the term. They are, however, of late date—after 1050—as in fact is all the evidence adduced. It is not impossible that the word 'cotlif' has passed through various stages of meaning, as has 'tun' and 'by,' and that the word as used by Aelfred (if Aelfred was the writer) denotes a stage of development less advanced than is the case in the quotations given above. This, however, is only conjectural.

[1] Haddan and Stubbs, *Councils and Ecclesiastical Documents*, III, 314–325.

[2] Earle, *L. C.*, lxxv.

struction, each was bounded with the utmost care. As belonging to the king or the state it had obligations peculiar to such ownership. These obligations can be partially determined from the exemptions stated in the 'bôc.'[1] Land when granted as folcland was to be used for the defence of the kingdom, and as a means whereby the internal administrative machinery of the kingdom might be regulated. The sitters on lænland were in one sense public officers, who were required to perform certain functions for the maintenance of the public welfare. Their duties were, therefore, of a financial, administrative and judicial nature. First, toward the king and his retinue. Their property was at the royal service, for the entertainment of the king, his followers, and all those under him in authority, such as bishops, ealdormen, baliffs, judges, gesithas, gerêfas, keepers of dogs, horses and hawks.[2] They provided a separate house when such persons were traveling in the public service; they cared for dogs and falcons, and in fact became or provided for keepers of these as well; they furnished post horses and had to assist in the building of the royal house or the hedging of the royal deer park. They supported, that is fed and clothed, the 'fæsting men,' whom Earle considers a kind of rural police,[3] and they paid certain royal tributes, which one charter calls *principale tributum.*[4] They aided in the execution of justice by pursuing and capturing thieves and assisted in the execution of the criminal law. What is implied by *res penales* and *causæ penales* is uncertain, the Anglo-Saxon term is 'wite-rædan.'[5] Earle thinks that it concerned the pursuit and capture of a criminal, and his safe-keeping until brought to justice. But the obligations and privileges may well have been more comprehensive

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[1] Earle, *L. C.*, lxxxii–xciii.

[2] *Cf. Bede*, II, 16; 'þær rad betweoh his hamum oðþe be tunum mid his þegnum.'

[3] Leo, *Rectitudines*, 196–197, cannot definitely explain this term.

[4] *C. D.*, 260.

[5] Maurer, *K. U.*, II, 32; *Ine*, 50.

than has been here noted, for those only have been included which are distinctly named among the charter exemptions. There is no very special reason for thinking that the duties were definitely fixed by any general rule. "The command of the king" (tô cyniges ġebanne) is the phrase of the *Rectitudines*, and it is reasonable to suppose that the holder of folcland was liable at any time to be called upon to place himself and his land at the service of the state. A further discussion of this question will be entered upon when we examine the 'thegenes lagu' contained in the *Rectitudines*.

The general form and internal arrangement of the manorial estate has been graphically pictured by Mr. Seebohm, with whose name the subject of mediæval land tenure will always be closely connected. An attempt must, however, be made to draw its outlines here, for it was the environment which enclosed the life of which this essay treats. Some idea of the system, some knowledge of the nomenclature must precede the study of the occupants and their daily life.

In Domesday all England outside of the large burgs is largely filled with manorial estates, which are to all appearances modelled after a more or less uniform plan. In the tenth and eleventh centuries, however, there were extensive stretches of moor, fen, woodland and pasture, at that time practically *terra regis*, though the royal claim must have been somewhat checked by the growth of the powerful nobility, who, in late Anglo-Saxon days, usurped the royal rights. These stretches of dense woodland and moor greatly isolated one manor from another, and made each veritably a little world in itself, a condition which underwent little change until after the Black Death and the Peasants' Revolt. It is to be carefully remembered that the terms, manor—which we employ because Domesday book acknowledges the existence of *maneria* in the time of King Eadward—parish and township were not necessarily synonymous. Very often, it is true, manor and township were coterminous. Often the township was much larger and contained the manor, for we have seen

that the township of ancient times may have been very much larger than the township of to-day.[1] Yet there are also cases where in tracing back their history we find a greater agreement between manor and township. The manor was not infrequently greater than the parish as well, and again the parish sometimes included more than one manor. Pollock says that it was not the rule for the boundaries of manors to coincide with those of townships or parishes; that manors constantly included several townships or parts of townships, and that parts of the same townships often belonged to two or even more manors.[2] In size there was great variation. In Yorkshire the manors seem to have been smaller at the time of Domesday book, containing as few as 700 acres, rarely more than 1500. Here, too, tens and even hundreds of manors were often under the control of a single lord, even in the ninth century. In Domesday book the king alone is the lord of 1422 manors, and others of his chief men possessed numbers equally startling.[3] Aelfred's will (880–885) mentions some 65 estates,[4] while that of Aelfred the ealdorman gives the size of six estates as 32 hides, 20 hides, 30 hides, 10 hides and two

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[1] Maitland, *Archæological Review*, IV, 235. *Manerium* was something outside of, and apart from, either tûn, tûnscip or parish.

[2] Pollock, in *Macmillan's Mag.*, Vol. 61, 420. *Cf.* Jones, Introd. to *Wiltshire Domesday*, xxvi–xxvii. Scrutton, *Commons and Common Fields*, 11–12. "The manor of Taunton Dene covered four hundreds; Sutton many towns. The manor of Cassey, in Norfolk, included many villages, while frequently in one vill there were two, three or four manors." "The term *manerium* seems, therefore, sometimes used for the whole Honor, Hundred or holding of the chief lord; sometimes for a single holding whether or not commensurate with a vill or township held of the chief lord; sometimes for a collection of such holdings, which their lord for convenience had treated as one manor, holding the courts for all in one of them; sometimes merely a dwelling or mansion house."

For an instance, in the time of King Eadgar, note as follows: Verum tamen Aegelwinus Alderman dixit & ad multorum testimonium direxit, quot utraequae terrae, scilicet Havekestune & Newtun, datae erant Regi pro uno manerio. *Historia Eliensia*, Gale, I, 480.

[3] See the figures in Ellis, *Introd. to Domesday*, I, 225–227.

[4] *C. D.*, 314.

of 7 hides.[1] The size of the hide has been the subject of long discussion, as has also its origin and its meaning. It seems to be closely related to OHG, *huoba*, Low Dutch *hufe*,[2] and to 'hiwisc' (from 'hiw,' family); in its present form, however, it is purely insular though without doubt dating back to the very first settlement.[3] If related to 'hiwisc,' as seems probable, then there is contained in the word 'hîd,' used not as a land measure but as an actual holding, a double idea; first, the amount of land sufficient to maintain a family (perhaps 'sib' or 'mægth')[4] and second, the land cultivated by a plough team.[5] The hide would vary, therefore, according to the nature of the soil and the size of the 'mægth.' This variation is borne out by a phrase in the Ramsey Chartulary, where it is stated that an entire knight's fee was composed of certain hides, the hides of certain acres, to wit: that four hides made a knight's fee, four virgates made a hide, and acres made a virgate *videlicet aliquo loco plus aliquo loco minus.*[6] The latest researches have strengthened the earlier view, which Kemble strongly combatted,[7] that 120 acres made a normal hide, with thirty acres comprising a virgate.[8] This would give us, as the size of Aelfred's estates approximately, 3840, 2400, 3600, 1200 and 840 acres. Manors of greater size are mentioned, and others of not more than three hides are found in the charters. Five hides, or approximately 600 acres, were sufficient for thegnhood, and forty hides, or approximately 4800 acres, for earldom.

While on the subject of the units of measurement a word or two more may be said explanatory of them. In addition to

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[1] *Ibid*, 317. [2] Earle, *L. C.*, 457. [3] Earle, *L. C.*, lii.
[4] Schrader, 350. [5] Seebohm, 40.
[6] *Domesday Studies*, 13. This accords with Seebohm's results, *V. C.*, 36–40.
[7] Kemble, *Saxons*, I, 113.
[8] Eyton, *Key to Domesday*, 3–16. Eyton rejects the hide as an areal measure. Seebohm, as cited. *Domesday Studies*, 189–225. Earle, *L. C.*, 457–461. Pearson, *England in the Middle Ages*, I, 654, has expressed the opinion that possibly the virgate was Bede's hide, upon which Kemble based his statements. This is hardly tenable.

the system of measurement by hides there was another system, said to have been early introduced into England by the Northmen, and again by the Normans in the eleventh century; of this the unit was the carucate which was composed of eight bovates. It is a debated point whether the carucate was ever used by the Anglo-Saxons of the period we are discussing. Mr. Round, in answer to Eyton (*Key to Domesday*, 17), finds that "full two centuries before the date of Domesday the districts which in the survey are measured by carucates had been settled by the Danish invaders and apportioned out anew among themselves," and he concludes that in Danish Northumbria and Danish Mercia the carucate system was early in vogue.[1] But as in all probability the manor of the *Rectitudines* was located in the southern part of England (if such definite location can be made, which, though probable, cannot be conclusively proven), a full discussion of the carucate seems hardly necessary. In addition there existed in Kent another system, the *solin* (sulung) and the *jugum* (geoc).[2] There is little doubt that the hide, carucate and solin represented the same idea, the ploughland sufficient for the maintenance of a *familia*.[3] The close association of these words with the family group, the land and the plough, carry us back for their origin, to the beginnings of agricultural life among the Anglo-Saxons. Bede, speaking of certain lands consecrated by King Oswy in 655 A.D., notes that each contained ten *familiae—decem familiarum*—which the Saxon translator renders 'tŷn hida landes,'[4] and Henry of Huntington, whom Earle considers to have been of an archæological turn of mind, defines the hide thus: *Hida autem Anglicè vocatur terra unius aratri culturae sufficiens per annum*.[5] Thus there is good reason for

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[1] *Domesday Studies*, 199–200. Birch, *C. S.*, I, 449.

[2] Other pre-Norman terms equivalent to the hide were *casati, mansio, manens, aratrum*.

[4] Bede, *Hist. Eccl.*, III, 24; also I, 25, IV, 3, 16.

[5] Earle, *L. C.*, 459. This passage has been often quoted.

thinking that the hide was the unit of measurement, and that the virgates and acres came after, that is, were deduced from the larger unit.[1] It is also evident that so far as etymology is concerned 'hîd' has nothing to do with the plough, but the names, carucate or ploughgang (*caruca*, plough team of four oxen [2]), bovate or oxgang (*bos*, an ox), sulung ('sul,' 'sulh' A. S. ploughshare [3]) and geoc (yoke, *i. e.* of oxen) suggest at once that the plough and the plough-team, whether composed of one, two, four or eight oxen, was the foundation of the system. The cause of this nomenclative influence of the plough is evident; in primitive land measurements the plough-team and the furrow were employed as determining units. Nomadic people had no need for so small an area as the acre; it was only with the coming in of the intensive system of agriculture and of fixed arable land that such measures were needed. Even the process of establishing a uniform system has been a slow and gradually developing one. To attempt to define exactly the Domesday measures is apparently a hopeless task, and equally hopeless is it to determine the exact value and size of the pre-Domesday measures. Birch says that "the calculations which work out one value [for the hide] in acres in one place or in one country will not give satisfactory deductions elsewhere, and all attempts to fix the exact acreage of the hide have necessarily failed, because the expression represents a quantity which varies in direct proportion to the arability and convenience of the land to which the term is applied;" [4] and, we may also add, to the efficiency and strength of the the oxen and ploughman.[5] So far as can

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[1] Dr. Cunningham, in an interesting discussion upon the hide and furlong, thinks that the acre was the unit. *Growth of English Industry and Commerce*, 2nd Ed., 114.

[2] Birch, *Domesday Book*, 217–227. [3] Schrader, 127, 289.

[4] Birch, *D. B.*, 229. Compare Introduction to *Cart. Gloucest.* III, cix. *Domesday Studies*, 189. Vinogradoff, *Villainage*, 239.

[5] Dr. Cunningham says: "If the hide meant originally land for a family, it had probably reference to possible produce rather than to actual area," 113,

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be determined, therefore, we may conclude that the carucate represents the plough work of an eight or a four ox team, the bovate the work of a one ox team, the *jugum* (geoc) the work of a two ox team, thus making the proportion of the carucate, jugum and bovate as 8 (4), 2 and 1. The only point wherein there may be room for serious disagreement is regarding the number of oxen requisite for the holding of a carucate or hide. Birch considers four oxen to have been the normal plough team as against Seebohm, whose view Round strongly supports.[1] Birch bases his opinion on the interpretation of the word 'carucate' and the illustrations in contemporary manuscripts,[2] and Seebohm agrees that the plough teams of the villeins were probably composed of but four oxen, which Round cannot admit, as he does not think that the 'caruca' of Domesday ever varied.[3] Passing by this problem to the question of the virgate, which we have considered to have been originally but a part, that is a quarter, and not an original unit, we find that it was made up of a certain number of strips—a 'bundle,' as Seebohm calls it—scattered throughout the fields of the manor; each strip was an acre or an half acre, and the number composing the virgate varied. It was not, therefore, an abstract measure of land, but originally a

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note. It is, of course, well known that the hide in Domesday was a geldable unit—a measure of assessment, not an actual area. This gives three distinct uses, an actual holding, a geldable unit and an areal land measure.

[1] Seebohm's well known estimate is that the hide or carucate *seemed to be* the holding corresponding to the possession of a full plough team of 8 oxen, in yokes of four abreast; the virgate (corresponding to the jugum) to the possession of a pair of oxen and the half virgate or bovate to the possession of a single ox. *V. C.*, 65. Round says: "It is absolutely certain in my opinion that the caruca of Domesday stands for a team of *eight* oxen." *Domesday Studies*, 209.

[2] *Domesday Book*, 225–226.

[3] Seebohm, *V. C.*, 85–86. Round, *Domes. St.*, 209. Vinogradoff, speaking of the 13th century, says that "it would be very wrong to assume in practice a strict correspondence between the size of the holding and the parts of an eight oxen plough." *Villainage*, 253.

holding made up of a greater or less number of rectangular pieces, no two contiguous, though the three fields were divided with system and regularity. The length of the acre was a furlong or furrow-length, which was as much as a man could plough without turning, and without becoming weary; this length soon became fixed at 220 yards for the common acre, while its width seems to have been determined by the amount which could be ploughed in one day (half day).[1] This width also became fixed at four rods or 22 yards for the common acre, but it may well be believed that no uniform rule prevailed until it was fixed by law in 1307. Estimating the furrow at a foot's width we have 64 furrows to the acre with a remainder of two feet for the dividing ridge (balk) between the adjacent acres of any two villeins.

The estate was very definitely and carefully bounded; the description was of such a nature that it could be readily perambulated, and we see in the hundreds of such boundary courses and in later monasterial chartularies the care which was taken to make such perambulation clear and easily followed. There is a charter preserved which shows the importance of thus including in the grant the exact details of the manorial boundaries, as it also shows the manner in which the perambulation was performed. A dispute arose in the year 896 over a piece of woodland given by King Aethelbald to Worcester monastery. Aethelwald had appropriated the land, but yielded to the bishop's claim, and in order that the location of the land might be determined with certainty he ordered his geneât to go with the priest of the citizens, that the latter might show him all the bound marks as they were written in the old charters of Aethelbald. This was agreed to, and when the hearing had been concluded the citizens' priest, whose name was Wulfhun, rode the bounds, and with him

[1] There are diagrams given in Seebohm, frontispiece, and Cunningham, 114. From a comparison of the Welsh evidence Seebohm is tempted to give to the Saxon system of hides and virgates a Welsh origin, 118–125. Compare Lewis, *Anc. Laws of Wales*, 337–338.

was Ecglaf, the geneât of Aethelwald. And they rode from Ginnethleah on to Rodborough itself, thence to Smececumb, thence to Sengetleah, thence to Heardanleah, otherwise called Dryganleah, and so on to the lesser Næglesleah, and so to Aethelferth's land. "Thus did Aethelwald's man guide him over the bounds as the old deeds directed and indicated."[1]

As giving a closer insight into certain peculiarities of the land surface, and for the purpose of leading up to the more detailed account of the Saxon manor, we may cite one of the many hundreds of these perambulations, which might at any time have been ridden by a priest or geneât or any one appointed for that purpose. It is not to be understood that the bounds were always traced on horseback. This might well have been the case on occasions similar to the one above cited, but the yearly "going the bounds" which was performed on the Rogation days, or, as indicating the very fact of the "going" itself, the Gang days,[2] was undoubtedly performed on foot. The course which a perambulator would take in following the boundaries of the manor of Alton would have been as follows: first he would have gone from the westmost spring straight up to the old military road to the west of Wanborough, then to a stone at Charlcomb's head; then to a stone at Wancomb, near which and above was a hollow; then to the old dike[3] beyond Randon, on a level with which on

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[1] *C. D.*, 1073. Earle, *L. C.*, 154–157. The latter gives a translation:

and hit swâ swîðe mildlice âgeâf ðâm bisceop and heht his geneât, Ecglaf hâtte, ridan mid ceastersetna preôste, Wulfhun hâtte, and he hine ðâ gelædde ealle ða gemæru swâ he him of ðâm aldan bôcum rædde hû hit ær Æðelbald cyning gemærude and gesalde, 155.

and ðus se ceastersetna preôst hit gerâd and se Æðelwaldes geneât mid hine, ærost on Ginneðlæge and ðanon on Roddanbeorg sylfyne, ðanon on Heardanlêge ðære is ôðer noma Dryganlêg, ðæt swâ on ða læssan Næglesleâge and swâ to Æðelferðes londe. Ðûs him gewisede se Æðelwaldes mo[n] ða gemæru swâ him ða aldan bêc ryhtan and wisedôn, 156.

[2] *C. D.* 1070, where the terms are used interchangeably.

[3] A.-S. 'dic' has given us both dike and ditch. It included the meaning of each, not only the excavation as in ditch, but also the mound of earth thrown out at the side as in dike.

the other side lay a little barrow (or hill). Then to the common gore[1] beyond the dike, where it went within the red gate;[2] then to a great stone at the head of the linces;[3] thence to another stone at the bottom of the valley which lay outside of Woddesgate; thence to a barrow on the down to a thorn tree, which stood within the dike on the east of Chickeling way; then along the linces of Moxes down to the old wall at Washing way downward to the dike; thence on the right to Ruwan line; thence along the line to Heathesbritting lea, low-lying; thence to an old valley way along the slade[4] at Ewelford; thence along the brook by the old river bed again to the spring.[5]

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[1] A gore was the corner of a field left after a certain number of acre or half acre strips had been ploughed in the arable. Such odds and ends of unused land seem to have been sometimes called 'no man's land' or 'Jack's land' (Seebohm, 6). Gomme would see in such, not the result of an economic necessity, but propitiatory gifts to the devil or the sylvan deities, and he brings in evidence to show the probability of this from Scotland and India (*V. C.*, 114–115). We find the term *nannes mannes land* and the phrase *indigenae nannes mannes land vocant* very early (Birch, *C. S.*, I, 341, 184). So far back as 700 there is occasional mention of the *old* gore, which shows the antiquity of this arrangement. Originally the word meant merely a wedge-shaped piece of land.

[2] Gate from 'gitan,' to get, is used in the sense of a lane or passage.

[3] Linces have proved a subject of much interest and investigation, as they are still to be seen in England and Germany. Seebohm's view is that they were formed when the strips of plough land were on a hill side, where the furrow would be always turned downwards, the plough returning to the other end idle; thus in time terraces would be formed separated by banks covered with brambles or coarse grass. In the case quoted the furrow ran east and west, and its head was the terminus where the plough was turned. Gomme has the novel theory that these terraces were the work of primitive hill communities, who constructed these terraces artificially because of the impossibility of occupying the thickly wooded valleys. The creators of these terraces were—he thinks—pre-Aryan hill folk, who settled by tribes or clans on the hill tops for defence. He assigns them, because of the entire absence of metal or any implements whatever, to the Stone age. *V. C.*, 94–95; 102–103.

[4] An open tract of country.

[5] Thorpe, *Dip. Saxon.*, 494–495. Seebohm gives a boundary in some respects better because more full (107–108), the date of which is 901–924.

As has already been said the land included within such boundaries was in the large majority of cases held either as folcland or as bôcland. Such land was divided into two parts, a distinction which may or may not have been due to a composite origin of the manor. These were the inland, or the lord's demesne land, and the ûtland or the land held by the tenantry.[1] Probably, if we are to judge from the arrangement in later times, a large part of the inland formed a compact area, within which the lord's house stood, the *in-* as contrasted with the *out*-land. But it was by no means all in one piece, for the lord held strips in the open fields cultivated for him by the peasantry, a fact which shows clearly that the lord in some way formed an organic part of or had an interest in the original group and was not superimposed from above. In this one particular the lord was one of the villeins,

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There are many interesting examples in *Chron. Monast. de Abingdon*, I, given more accurately than in Kemble. That on page 71 is full of curious and valuable detail. Also many may be found in *Liber de Hyda* at the end of the volume, where translations are given. Thorpe, *Dip. Sax.;* Kemble, *C. D.;* Birch, *C. S.*, and Earle, *L. C.*, are full of such boundary courses which because so worded as to be readily identified by the perambulator, are most instructive to the student. On the customs connected with the perambulation on the Rogation or Gang days see Brand, *Popular Antiquities*, I, 114. Gang days are still so called in Northern England, Brand, 114. Compare also Du Cange under *Rogatio* and *Perambulatio.*

[1]Again Hermann has a novel theory to offer. Regarding the inland and ûtland he thinks that the former corresponded to the bôcland of the thegn, the latter to the folcland, and that in the changing of the thegn's folcland into bôcland only the inland was concerned; that so soon as the thegn held his inland no longer as folcland, but as bôcland, then the ûtland was called 'geneât land,' as in *Eadgar*, II, 1.

We find in a charter of 869 the various kinds of land classified as pasture-land, plough-land, wood-land and meadow-land; and of these meadow- and plough-land are distinctly spoken of as inland, as follows:

Est autem terruncula praememorata his falerata agellulis constipataque on sceomman hrycge willering wic and on mid helte cynemunding wic and on sigeresfelda uddingwic ægðer ge êtelond ge eyrðlond ge eac wudulond all hit is gemæne þara fif and twentig hida and at peadan beorge seondan sex æcras innlondes ægðer ge medlondes ge eyrðlondes. *C. D.*, 299; Birch, *C. S.*, II, 141–142.

for although they labored for him, yet his strips were no better than the others and followed the ordinary course of husbandry. The lord also possessed as part of the demesne land certain larger and enclosed lots of arable, meadow, or pasture. It is quite impossible to determine, except from the analogy of later evidence, what was the proportion of inland to ûtland. It is not unlikely that there was great variation in this respect throughout England in the eleventh century, although we may roughly conjecture that the inland altogether constituted from three-fifths to two-thirds of the best land of the manor which was in cultivation.[1] So far as can be determined none of this land was held at this time by any of the tenantry. At any rate there seems to be no clear evidence that the manor of the *Rectitudines* was a manor with freeholders; that is, in the later sense of the phrase, *libere tenentes;* and attempts have been made to show that the rise of the free tenantry was a consequence of the Norman Conquest and the more complete introduction of the feudal system, and that *libere tenentes* or *liberi homines* had no existence in pre-Norman times.[2] Therefore the demesne land was almost entirely employed for the lord's use; the shares in the arable and meadow were tilled and cultivated by the villeins, the land adjacent to the lord's house was cared

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[1] At Anesti the two parts were almost equal. In the manor of 1000 acres the demesne land consisted of 400 acres of plough land, 50 acres of meadow and pasture and fifty of scattered woodland. Hall, *Court Life under the Plantagenets*, Ch. I. Vinogradoff shows that villages without a manorial demesne, though exceptional, are found in those parts of England where the lord's influence was political rather than economical; and that, on the other hand, there are hardly any cases where demesne land has spread over the entire manor. He cites one case, however, where the demesne consisted of 300 acres, the villein land of but 30. In this case much of the demesne land had been leased. *Domesday of St. Paul*, 58. Vinogradoff, *Villainage*, 316. Compare the proportions at Dyddenham, given in *C. D.*, III, p. 450; Earle, *L. C.*, 376, or more conveniently in Seebohm, *V. C.*, 150.

[2] Seebohm, 86–87. Allen, *Origin of the Freeholders*, Mem. Vol., 312-318. Yet see Vinogradoff, *Villainage*, 208–210 and Essay, II, Ch. IV.

for by the house servants and slaves. Within this latter area, which we are inclined to think was considerable in amount, stood the house, built generally of wood, rarely at this time of stone, standing not far from the village, where were the houses of the tenantry. Yet because, as we know, the manor and the vill were not necessarily coterminous, there was not always a manor house to every village, but there might be one mansion representing the manorial jurisdiction over many villages. Such mansion was not palatial as the use of the word 'lord' might seem to imply. In earlier times and in distant localities even in the later period it may have consisted of not more than one room, suitably subdivided. More commonly, however, there were three. Improvements in this particular must have gone on very steadily with the introduction of Roman civilization and custom through the influence of the Church. The large proportion of manor houses were presumably at first built lightly of wood in such a way that they could be readily taken apart and set up elsewhere if necessary. This is conjectured from a comparative study of the old Aryan, old Grecian and German house,[1] from the evidence of survivals in mediaeval times[2] and from the information given in the introduction to the translation of Augustine's *Soliloquia*. From the latter we see that the house there described had a framework, for there are mentioned 'bohtimbru' and 'bolt timbru,' 'stuthan sceaftas,' and 'lohsceaftas,' which seem to be of the nature of stud and joist timber. This framework was covered with a kind of woven wicker-work, and there were employed for this purpose the 'fair rods' with which the walls were to be entwined.[3] This

[1] *Das deutsche Haus in seiner historischen Entwicklung.* Rudolf Henning, *Quellen und Forschungen zur Sprach- und Culturgeschichte*, XLVII, 163–164.

[2] Gomme, *V. C.*, 45–48; 116–131; 213–214.

[3] 'mid fegrum gerdum þat he mage windan manigne smicerne wan and manig ænlic hus settan and fegerne tun timbrian.' Compare the words in Aelfric's vocabulary and Wright's comments upon them. Wright-Wülcker, *Voc.* 126.

with the thatched roof formed a simple structure, the oldest type of the German block house. Such may well have continued on many of the smaller and more distant manors.[1] Many houses of the older type though closely related in origin and in main features to the others were constructed somewhat differently. These too are specified in the above document by the use of the term 'stoclif' or stake hut; Seebohm has called attention to the survival of this type in the Saxon church at Greenstead in Essex,[2] and Heyne thinks that the hall Heorot was built in the same way.[3] The 'stoclif' consisted of upright posts placed upon stone bases, bound together horizontally by cross bars and obliquely propped up by shores. Some cementing material, clay or moss, was used to fill in the cracks between the logs, and in both of these cases the houses were thatched. If the interior consisted of but a single room such may have been divided into parts much after the manner of the Saxon houses described by Henning.[4] After passing through the entrance one came upon the quarters for the animals, which probably continued for some time to find a

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[1] It seems probable that the house described in Bede's story of the holy dust was a manor house, for it had its 'hlaford.' It also was built of studs and yards. Bede, *Ecclesiastical History*, III, 10 (*Early English Text Society*, 95). See the same story in Aelfric, *Lives of the Saints* (*E. E. T. S.*, 94), 138–140. þa cwom he to sumum huse in æfentiid, and eode in þæt hus, þær þæt ham eall to symble gesomnod wæs. Wæs he onfongen from þam hlaforde þæs huses, and him mon setl tæhte, and he sæt mid him æt þæm symble. Áheng he þone sceat mid þære moldan, þe he brohte, on ane *studu* þæs wages. Wæs micel fŷr onæled on middum þam hûse. Mid þy heo þa longe sympledon and druncne wæron, and þa spearcan up flugon in þæs huses hrôf, se wæs mid *gyrdum* awunden and mid þâce beþeaht, þa gelomp þæt þæt hus eall wæs in fyren and ongon semninga byrnan. þa þæt þa gebeoras gesawon, þa flugon heo forhte ût, and nænige helpe þam beornendan huse gedon meahton; ac hit clæne forborn, nemne seo *studu* aân þe seo molde on hongode, seo gesund and ungehrinen from þæm fyre astôd and awunade. (We have italicized the important words.)

[2] Seebohm, 170, note.

[3] Heyne, *Lage du Halle Heorot*, 32.

[4] Henning, 29.

place within the most primitive of the manor houses and the villein cottages, which more and more modelled themselves after the square dwelling of the superior chiefs and lords. The animal quarters extended on each side for half the distance; then followed bed[1] and provision corner, and lastly, including the bed-recess and taking up the entire further portion of the building, with a fireplace in the centre, an oven near by, and a door on each side, was the 'flêt,' or as we might call it, the living room, where all sat for drinking, eating and discussion. It was the hall through which the sparrow flew, whose flight in at one door and out of the other was compared to the fleeting life of man in the story which Bede tells of the conversion of Northumbria. It was the room constantly mentioned in the laws as the entertaining room, the guest-hall, and was frequently used for the whole house. It was the hall where sat king Herod when his daughter danced before him. It was the hall where was held the marriage in Cana of Galilee.[2] Bêowulf speaks of the 'flet-sittende' and the word which originally meant the whole interior space of the house was in later Anglo Saxon times narrowed to mean merely the hall. It continued to exist among the peasants for a long time after it had fallen into disuse among the richer classes. There can be little doubt that the above type represents the form of construction at the time of the settlement; it remained in general the national type and yielded but slowly to the influences of a foreign architecture. Within the tûn the old building material, wood, was used, tenaciously holding its own even in the presence of the more durable stone.[3] In the matter of internal arrangement an important change was taking place, particularly among

[1] Aelfric mentions 'bed cofa,' bed recess or bed closet. Wright's note is that "the bed room was probably in earlier times and in the ordinary houses only a recess from the room in which the family lived." *W.-W.*, 124.

[2] Henning, 139. Note the guest scene in Bede and Aelfric, above, p. 109, note 1.

[3] Heyne, *Halle Heorot*, 6–7.

the rich. The custom of collecting all into one room, which remained in many places late into the fifteenth century and remains in isolated instances even to the present, was gradually done away with. In the houses of leading chiefs the whole space in the main building would be very early needed for hall and sleeping room. This would lead to an innovation which we find clearly referred to in the documents before us and in other places, namely, the erection of separate buildings outside of and adjacent to the main central structure.[1] That such separation had taken place at an early date Bêowulf indicates[2] and the same is seen in the Genesis,[3] where the hall is erected apart from the other buildings, and where there is a separate house for provisions and for cooking and bowers or sleeping apartments for the master of the house and the women. But the hall Heorot is not to be taken as a type of manorial structure throughout England, nor do the illustrations taken from the Harleian MSS. and frequently copied represent any universal form. The latter show us a stone substructure, a wooden superstructure and a tiled roof. Such existed, of course, but they show the influence of Roman architecture acting through the Church. Stone structures first appeared in connection with the cities and monasteries; roofing with tiles and lead and shingles first appeared upon the churches;[4] window-glass also was used for ecclesiastical purposes before it was introduced into private houses. As late as the seventeenth century many a manor house contained hall and sleeping rooms in the same building, the former serving as kitchen, dining-room, parlor and bed-room for the men.[5]

We have no means of determining the style of the house[6] referred to in the *Gerefa*; it was presumably a mansion of size and importance containing a hall,[7] and standing adjacent

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[1] *Ibid.*, 5; Wright, *Domestic Manners in England*, Ch. I.
[2] *Bêowulf*, l. 140. [3] *Genesis*, ll. 1820, 1880–1881. [4] Heyne, 33.
[5] Gomme, *V. C.*, 117–121, quoting Baring-Gould.
[6] hûs, *Gerefa*, 13. [7] *Curia, R. S. P.*, 7, *Vetus Versio* text.

to a court or yard,[1] which probably formed the area between the house and the outbuildings, the quadrangle which was the customary form of homestead construction, so arranged for defence. Around this quadrangle were the barns for corn and hay,[2] the stalls for horses and cattle,[3] the pens for sheep,[4] and folds for smaller animals,[5] some of which included a hennery.[6] Somewhere within the court were ovens and kilns,[7] and near by, the salt-house,[8] the malt-house,[9] the ricks for hay and wood, while at a distance, perhaps on some running stream, the mill.[10] Within the inland were also enclosed fields of meadows, arable and pasture together with a kitchen garden for herbs and vegetables.[11] Near by perhaps was the vineyard,[12] and probably quarters for the slaves in or near the lord's house, with a park of some kind adjoining.[13] Around all was the permanent hedge which enclosed the lord's tûn, as the farmstead is called five times in the *Gerefa* and once in the *Rectitudines*;[14] the word 'burh' which is used once, or possibly twice,[15] designated the

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[1] odene, *Gerefa*, 3, 11, 17. [2] berne, *Ibid.*, 3; *R. S. P.*, 4 § 1; 17.

[3] scipene, *Gerefa*, 3, 10, 11, 13. *Cf. Christ*, 1425. Heyne, 28–29. 'schipne' or 'schepney' remained a common provincial term. Wright, *Provinc. Dict.*; *Cf.* mod. Germ. *schüppen*.

[4] lochyrdla, *Gerefa*, 9. [5] falde, *Ibid.*, 9, 10, *R. S. P.*, 1 § 1.

[6] ge eac henna hrost, *Ibid.*, 11. [7] cylne, ofn, *Ibid.*, 11.

[8] An inference from the salt utensils mentioned.

[9] aste, *Ibid.*, 11. [10] mylne, *Ibid.*, 9.

[11] *Ibid.*, 12, 13. [12] wingeard, *Ibid.*, 12.

[13] These details may be compared with descriptions of manor houses in leases of manors in the twelfth century, given in the *Domesday of St. Paul*, ed. by Archdeacon Hale. Take the following as an example:

Halle hujus manerii habet XXXV *pedes in longitud'*, XXV *ped' in latitud'* . . . . *Domus, que est inter hallam et thalamum* (is so long and so broad, the dimensions both above and below the beam are given). *Thalamus* (dimensions given; then follow) *Boveria, ovilium, domus agnorum.* See 129, 130–132, 136, where the numerous outbuildings are given and many interesting details.

[14] ðe to tûne belimpð, *G.*, 1; ðæs ðe to tûne belimpð, *G.*, 3; ær to tûne to stiðð winter cume, *G.*, 10; sceal to tûne, *G.*, 11; fela tola to tûne tilian, *G.*, 14; nige faran to tûne feccan, *R. S. P.*, 2.

[15] burh hegegian, *R. S. P.*, 2. byrig, *G.*, 13.

quadrangle and buildings, not the whole tûn. It has rather the meaning of 'tûn' as a stronghold, though the use of the two words by the poets does not appear to be sufficiently accurate to draw inferences therefrom. The use of 'tûn' in the *Gerefa* supports the conclusion that the terms in Æthelbirht 'on eorles tûne,' 'in mannes tûn' refer to similar manorial homesteads.[1]

Leaving this compact tûn of the lord, it was but a short distance to the village, if there was but one, or to the nearest village if many were included within the same manor. Here on the ûtland lived the tenants who cultivated both their own lands and the lands of the lord of the manor. Their houses or huts were not scattered about but were crowded closely together forming a village generally of but one street. Each house stood in a 'toft' or yard and was loosely constructed of wood, clay, mud, turf or wattles. There is nothing in the documents before us to explain the character of these buildings, so that it is impossible to conjecture whether there existed at this time or at any time on English soil the so-called bee-hive houses, in which according to the column of Marcus Aurelius, the Teutonic ancestors lived. It is more probable, notwithstanding the fact that changes take place nowhere more slowly than in the village group itself, that a general conformation to the square type was the rule, and we should judge that the

[1] 'Tûn' used as here given was similar to the Danish 'by' meaning originally not an isolated dwelling, but a farmstead in the full sense of that term. A *stead* containing all the necessary additions, stables, stalls, folds and pens; in other words an economic and social unit more or less complete in itself. This is the meaning of 'tûn' in the *Rectitudines* and *Gerefa*, and in the laws of Æthelbirht the 'tûn' was the farmstead of a superior chief or lord. One may compare the use of the word by Aelfric in the parable of the wedding supper. "The first saith, 'I have bought a 'tûn' and it is needful that I go and see it, I pray thee, have me excused.'" "What," says Aelfric, "is in the 'tûn' betokened except earthly possessions (eorðlice æhta)?" Then the purchaser goes to see his 'tûn.' Aelfric, *Homilies*, II, 372 (Thorpe ed.). Tûn must be carefully distinguished from 'tûnscip' at this early period.

shape shown in the colored prints of Elizabethan times was fairly representative of the style of the better class of peasants' houses in the year 1000.[1] Their tendency was to conform more and more to the style of the manor house itself. The houses were small, of one room, in which were kept the cattle, or the horse, the chickens, and whatever other animals the ceorl possessed. But it is possible that the gebûras had more buildings than one, for the *Rectitudines* speaks of the barn of the gebûr,[2] though this, as merely a place for grain, may refer to a lean-to, or any seed chamber. Not only does the frequent mention of thatching in the *Gerefa* assure us that the village huts and cottages were covered with straw, but in the story from Bede of Germanus, we are told that the fire broke out in a cottage thatched with reeds.[3] We also learn from the latter narrative that the fire was in the middle of the room, the smoke escaping through a hole in the roof. This was the almost universal custom to which such a beautiful allusion is made in the "Frithioff's Saga," where the stars looked in like heavenly messengers to bless the feast of the heroes. Chimneys were scarce even in the days of the Black

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[1] Hall, *Society in the Elizabethan Age*, Ch. III, pl. I, II.

[2] and sâwe of his âganum berne, *R. S. P.*, 4 § 2. *Cf. Ine*, 57, Gif ceorl ceâp forstelð and birеð into his ærne.

[3] *Bede*, I, 19. With the above conception of the villagers' home life, we may compare life among the Yorkshire farmers at the beginning of this century. "On entering from the street or roadside we had to bow our heads, even although some of the yard thick thatch had been cut away about and above the upper part of the door, in order to obtain an entrance. We entered on a totally dark and unflagged passage. On our left was an enclosure partitioned off from the passage by a boarded screen between four and five feet high, and which not long before had served the purpose originally intended namely that of a calves' pen. Farther still on the same side was another dark enclosure similarly constructed which even yet served the same purpose. On the other side of the passage opposite this was a door, which on being opened gave admission to the living room, the only one in the dwelling. The floor was of clay and in holes and around on two sides were cubicles or sleeping boxes of the entire family." Atkinson, *Forty Years in a Moorland Parish*, 19–23.

Death,[1] though increasing rapidly in numbers after that event, for we see the house of the copyholder in the time of Elizabeth well chimneyed.[2] The number of these houses was small; Rogers speaks of the parish as containing from thirty to one hundred inhabitants and the parish might mean one manor or two;[3] Canon Taylor says that the "dwellings were not dotted about by the wayside, but collected in scattered hamlets, consisting of a few houses or cots often not more than five or six."[4] The impression left after studying the *Gerefa* and *Rectitudines* is that the writer had before him an estate of considerable size, with a numerous body of villagers and a complicated routine of work; else it would hardly have seemed necessary to caution the gerêfa so frequently, not to neglect his duty or allow the tenantry to dominate over him; and to this may be added the frequent statement that the author has told but in part the labors to be performed and the utensils to be used. Probably at this time none, except some of the warders and the herdsmen, lived away from the village proper. There were few isolated and irregular holdings such as we find after Domesday and the presence of such indicates at once the breaking down of the village community and the introduction of new economic factors. It was the kindred group which first gave

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[1] Rogers, *History of Agriculture and Prices*, I, 421.

[2] Hall, *Soc. in Eliz. Age*, as cited.

[3] Rogers, *Economic Interpretation of History*, 13.

[4] *Domesday Studies*, 49. The following is from Hall's description of the manor of Anesti. "A dozen or more rude cottages or hovels, picturesque enough in their outward aspect from the herbs and mosses with which their mud walls and thatched roofs were covered. They were ranged in an irregular street, but with a considerable interval between each, as in addition to a garden, and in some cases, an orchard adjacent, every cottage possessed a tiny farmstead in the rear, consisting of a *byrh* or fold and a few covered sheds, serving equally as stable or barn lofts. The church, an imposing Norman structure, stood close at hand while not far from it the ancient Saxon manor house whose place was now usurped by the modern castle which towered in the background." Hall, *Court Life under the Plantagenets*, 2.

way under the pressure of a settled agricultural life, the village ties which took its place remained firm until the fifteenth and sixteenth centuries when these too gradually yielded owing to the introduction of the system of enclosures, the employment of new farming methods and the destruction of the old manorial relationship. But at this time the remainder of the lands in villeinage was composed of open fields, adjoining which were grass meadows, probably not very extensive, in the near neighborhood of the village, permanent enclosures used both for the cutting of hay and for the pasturing of cattle. A right in such might and did form a part of the regular holding of the gebûr, though each meadow was held by a few in common and fenced as a whole, while within each the various doles or divisions may have been separated by meer-stones.[1] This form of the common meadow, frequently noted in the charters[2] and boundary courses, is to be carefully distinguished from the great meadow beyond the arable. Parts of these enclosed meadows constituted the lord's demesne land as well, while common pastures for the lord's cattle, and meadows for the lord's mowing were probably similarly situated.[3] There were also enclosures for the horses,[4] sheep[5] and swine,[6] and fields for flax[7] and mint.[8]

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[1] Nasse, 17. Also Seebohm, 110 and note. Such enclosures are plainly indicated in the diagrams of Seebohm (frontispiece) and Taylor, *Domesday Studies*, 55.

[2] grestune, *Chron. Abingd.*, I, 427.
mæd gemæne, *Ib.*, 341.
Eccenes gærstun, *Ib.*, 176. *Cf. Ine*, 42.

[3] gemænre læse, *R. S. P.*, 12. oxena wic, *Chron. Abingd.*, I, 231, 236.

[4] stodfalde, *Chron. Abingd.*, I, 71, 80, 214. Earle, *L. C.*, 370. Nasse, 17, where he gives references to the charters. The fact that Stodfald is the name of a Hundred in Wiltshire shows the antiquity of the Wiltshire names and points to a time when there was a thin and scattered population. Jones, *Wiltshire Domesday*, xxxi.

[5] sceap hammas, *Chron. Abingd.*, I, 153. [6] swin haga, *C. D.*, 538.

[7] flax hammas, flax aceras, *Chron. Abingd.*, 184, 208. Earle, *L. C.*, 408.

[8] mint hammas, mint felda, *Chron. Abingd.*, 209, 223. How are we to interpret hennes feldes? Birch, *C. S.*, I, 280.

From the demesne land of the manor house, from the enclosed fields and the village in villeinage there stretched away the open fields of arable, where was spent the greater part of the villein's work-day. Wholly unenclosed, except with a few temporary low hedges, there must have been a practically unbroken view from the village huts to the wood and down beyond, save where the horizon was cut by the barrow, grove or rising hill so often mentioned among the boundary marks. Here was the arable where was grown the wheat, barley, oats and vetch, according to the familiar three-field system. Three great fields, one for fallow, one for winter tillage and the third for spring tillage, nearly if not quite surrounded the central homesteads; these fields about equal in size prevailed universally in the south, while in the north the two-field shift seems to have been more commonly employed. The latter, according to Canon Taylor, prevailed in Derbyshire and largely in the East Riding of Yorkshire;[1] in this shift only half the arable would be in tillage at one time while in the former two-thirds would be used. These fields were generally, though not always, subdivided into smaller fields, furlongs or shots, and then still further subdivided into narrow, oblong acre or half-acre strips running parallel to each other if in the same field, or sometimes at an angle if in different fields. As there were no hedges, except such as were temporary, the dividing lines were, in the case of the three large fields, roads or streams; in the case of the smaller, unploughed strips of land or wagon tracks and in case of the smallest of all, that is the acre or half-acre strips, narrow ridges of turf called 'balks.' Within the fields were the odd corners of land called 'gores,' while 'headlands,' the strips at the end of a ploughland upon which the plough was turned, were found in all fields, where there was no means of access by a "way." This headland was sometimes one of the acre strips, which was left until the remainder of the field had been ploughed. On the hillsides

[1] *Domesday Studies*, 145.

the use of the same system would cut the land into 'linces.' Thus the arable would be divided into as many thousands of these strips as its limits would allow. Little was done through artificial means to render this arable more fertile. The best lands were selected for tillage and the inefficiency of the drainage was betokened by the presence of brake, reeds and sedge pools.[1] The only means known and used for draining the wet lands were ditches, dikes and runnels and these were universally employed.[2] Low lying fens and marshy swamps, crundels and pools adjoined the arable, and through the fields ran rivulets, brooks and larger streams, whose banks were covered with rank grass, brambles and brushwood, and whose running water turned the mill[3] and fed the weirs.[4] That the primeval features of the country had been little changed was due in large part to the prevailing agricultural character of the life and the compact arrangement of the hamlets and villages, for wells and hedges, pits and ditches, stakes, crosses and stone heaps form almost the only evidence of man's existence found in the boundaries, besides the roads, linces, gores and headlands and the mention of hamlets and enclosures.

Beyond the arable lay the wastes of upland pasture, wold and down, heather fields and lowland pastures in the undrained moors for cattle, sheep and goats; the lesser mast yielding woods formed the pasture for the swine and are often, like the other pastures, described separately in the charters. Finally belts of extensive woodlands and forest lay beyond, separating settlements or sets of settlements and making communication of rare occurrence, if not practically an impossibility in some parts of England. For estates were at times widely apart, and the vast forests which surrounded the clearings were resorts of dangerous wild beasts, while the bleak moors which lay interspersed were equally to be dreaded.

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[1] Earle, *L. C.*, 282, 306, 393, 447. [2] *Ib.*, 192, 208, 282, et *passim.*
[3] *Chron. Abingd.*, I, 71, 74, 195, 206, et *passim.*
[4] Earle, *L. C.*, 246; Seebohm, 151–154.

Oak, ash, elm, beech, maple, lime, birch and thorn,[1] were the common woodland trees, and it may be that the fir was not unknown;[2] the undergrowth was full of hazel, elder, scrub-willow, oak and ferns.

The crude agriculture, the wasteful system of fallows, the loss of large tracts of land through bad drainage made the Anglo-Saxon system a very uneconomic one. Further than this, the open field arrangement was very injurious to the best interests of the villeins. The close contiguity of the strips made trespass in ploughing almost unavoidable; the growing grain was open to cattle as well as travelers; cross ploughing was impossible. The science of road-making was in its infancy even in the much-travelled highways, and roads in the common-fields and meadows were mere "ways," which in bad weather became sloughs, rendering trespass upon adjacent lands inevitable. This fact, together with the constant seeding of thistles and weeds upon adjoining strips, destroyed whatever inclination a gebûr may have had to be prompt, careful and systematic in the cultivation of his numerous scattered acres. All these difficulties were well known in Tusser's time,[3] and can only have been worse five hundred years earlier.

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[1] Kemble, *Saxons*, I, 52, note 4. [2] Earle, *L. C.*, 474–475.
[3] Scrutton, *Commons and Common Fields*, 116–122.

CHAPTER II.

The Lord and the Tenantry.

We have now taken a bird's-eye view of the surroundings within which the daily life of the manor was spent, and are ready to return to the discussion of the persons who took part in this life and activity. Who these were we have already indicated in the description of the manor itself but a more careful examination may now be made. First as to the status of the lord and the people who tilled his lands. In analyzing such status we come at once upon lines of distinction not easy to explain in terms of the present day. The simplest distinction which can be made between the various classes of men is that between the free and the unfree. But freedom in our sense was not in those days the desirable quantity that it is now. Such a condition as that of even approximately complete freedom would not have been understood by the Anglo-Saxon ceorl. Freedom was purely a relative quantity; it was not an abstract conception; it was freedom in respect of some one or something else, either the lord, the state, the Church or the lands which the individual himself cultivated. The king alone was free in respect of all other men; the thegn was free in respect of all save the king and the state, toward whom he was in bond for certain duties; the ceorl was in bond to his lord and the land on which he dwelt, he was only technically a *liber homo*, free before the law and privileged to take oath, bear arms and receive wergeld; but in respect of other men he was free only when contrasted with the slave, in other words he was in a position of greater or less serfdom; while

the slave was in bond toward all, a mere chattel, having no rights properly so called, tied to the soil, sold with it and classed among his lord's cattle. The king alone was free, the slave alone was unfree. We see at once from this that freedom was determined mainly by two conditions, the holding of land —we do not speak here of the historical relation between land and freedom—and the possession of civil rights. Neither of these did the slave have, and the thegn with both was to all intents and purposes fully free. Between this scarcely qualified freedom of the thegn and the slavery of the 'theow' was the status of that large mass of ceorls, who might be land-owners, land-holders or landless, and yet in each relation have certain rights recognized by the state. Freedom was therefore both practical and personal, it was not a quality inherent or theoretical. Properly speaking there was neither class nor caste at any time existent among the Anglo-Saxon people, though in fact differences did everywhere exist. In law the ceorl could become an eorl, the 'theow' by emancipation obtaining the civil rights of the ceorl could rise to thegnhood, the choir boy could be a priest, the clerk could be a bishop.[1]

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[1] We witan þæt þurh Godes gyfe þræl wearð tô þegene and ceorl wearð tô eorle, sangere tô sacerde and bôcere tô biscope. Schmid, *Gesetze*, p. 386, §§ 21, 22.

It is not our purpose to enter into a discussion of the question whether the eorl was at any time a person whose title indicated an hereditary class distinction. It is clear that this was not the case in later Saxon times, but most authorities agree that 'eorl' and 'ceorl' represent class distinctions in the earlier period. It is really surprising how little evidence there is for this except analogy and the jingle of the words. There is certainly none at all in the laws and it is probable that a critical examination of the use of 'eorl' in the poets would not bring much evidence to the support of the view. Allen in *Ranks and Classes among the Anglo-Saxons* believes that 'eorl' never referred to an hereditary class; his conclusions rest mainly upon the Kentish law, the law of Aelfred and the Saxon Chronicle, but in Bêowulf he finds nothing to controvert his view. For *Andreas* and *Elene* the following opinion is of interest. The eorls in *Andreas* and *Elene* are those who surround the king, attend upon him and are at the same time chosen warriors. "The only constant factor seems to be selection on some principle

Chief over all upon the estate was the lord, the 'hlaford,' who might have been the king or one of his greater or lesser thegns. If the lord were the king we should be dealing with a royal manor, like those of Hysseburne and Dyddenham before they were granted away. Frequent were the royal grants to the Church, to the ealdormen, thegns and gerêfas of the king, often of extensive tracts, which might or might not have contained village settlements; if not, such would be very soon formed. The manor of the *Rectitudines* was not a royal possession for its lord was a thegn; but in all probability it had been royal for the thegn's title rested on a 'bôc.' It might well have been a gift from the king *cuidam fideli ministro* for services rendered. We are not dealing with a thegn of the first rank, that is, a greater thegn; the number of such must have been small and the size of their landed property proportionately great, with a minimum of forty hides.[1] But if he were not a king's thegn he may well have been important among the lesser thegns,[2] filling no high office

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of excellence, special qualification or prominence without any consideration of the relation of the eorls to the king on the one hand or their position of mastery or control, over the serfs on the other." Kent noting the fact that "æðele mid eorlum" become Christians, says, that this separation into two classes of nobles and eorls "does not coincide with the usually held theory that the nobles 'æðelungas' were the same as the eorls, this name having been given them to express an inherent quality." "I take it," he says, "that the nobles formed no distinct class but rather a select group of the eorls, perhaps being considered of a higher rank." It would appear that in this poem, and probably the same would hold true of all, there is considerable licence in the use of 'æðelingas,' 'eorlas' and 'þegnas.' For instance the 'æðelingas' in E. 99 and 393, are the same as the eorls in E. 846. Again 'þegna heap' E. 549–620 are also apparently called eorls. Kent, *Teutonic Antiquities in Elene and Andreas*, 35–36. It may be that the evidence of the poets would not be sufficiently definite to decide the matter either one way or the other.

[1] Stubbs, *C. H.*, I, 174, note 4.

[2] The "County Thanes," as Gneist calls them, possessors of more than five and less than forty hides, with martial retinues. *Eng. Const. Hist.*, I, 94, note (2).

of state, but probably having his retinue of servants and companions, who accompanied him in war. The duties of the thegn called him in two directions; he was the servant of the king and the lord of the estate or estates whence he drew his revenue. As has already been noted his estate could be classed either as bôcland or folcland; in the *Rectitudines*,[1] the former alone seems to be referred to. A triple obligation fell on every landholder, that is on every freeman, whether his holding was alodial, by bôc or lænland;[2] it was a personal obligation, the common, universal necessity. A seventh century charter of Cadwalla, king of Wessex, speaks of this obligation as the three-fold necessity of all Christian people, *trinoda necessitas totius christiani populi*.[3] This universal personal service was not a tax, it was not a source of revenue, it was a form of military administration, whereby every landholder was bound to assist in the protection of the kingdom.

The first of these obligations, the 'fyrd færeld' required of the thegn that he be present at the gathering of the army-host and any failure to do this brought upon the delinquent a heavy fine. Attendance upon the army was not, however, confined to the landed thegn. Under Ine in Wessex a 'fyrd-wite' was imposed upon him who had no land, and upon the man of ceorlish rank.[4] Under Cnut a deserter from the 'fyrd' forfeited all that he owned and his life, and whatever his lord had given him was seized, while all his bôcland—if he had any—reverted to the king. The use of 'gesithcund' in Ine is suggestive, as it shows the thegn in the position of companion rather than servant to the king and the same idea is found in the law of Cnut which treats of the man who has fled from his 'hlaford' or from his 'geferan,' and the latter word is

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[1] *R. S. P.*, 1, Schmid, 370. Stubbs, *C. H.*, I, 82.

[2] *C. D.*, 18; Birch, *C. S.*, I, 83; other phrases are *communis labor, generalis incommoditas, onus inevitabile.* Earle, *L. C.*, xxi.

[4] *Ine*, 51. The 'fyrd-wite' for a land-owning man of gesithcund rank was 120 shillings and forfeiture of the land; for a landless man of the same rank 60 shillings, and for one of ceorlish rank 30 shillings.

used to translate *socius* in Bede.[1] The thegn was not the gesith (*comes*) but he took the place of the gesith. Differing from him in origin he gradually supplanted him in the army and the court, thus giving rise to a new *comitatus*, whose ties were double not single, one to the king, the other to the land, a duality of relationship never true of the old *comites*.

The second obligation of the land-holder was the 'burh-bôte,' elsewhere called 'festergeweorc' or 'wallgeweorc.'[2] This was the service due the king in the construction of the royal castle-fortress or the strengthening of strongholds for the protection of the land. Mr. Seebohm has given a graphic description quoted from the Chronicle of Scotland, wherein the thegn Macduff aids the king Macbeth in the building of a 'gret hows.' We see also from this that the contribution was from the oxen of the thegn, who were employed in the drawing of timber and stone.[3] According to Aethelstan's law a definite time was set for work of this kind; although this law does not appear to refer definitely to the 'burh-bôte' it is probable that this obligation was included in its provision. The time assigned was fourteen days after the Gang days (Rogation days) the time when a general perambulation took place.[4] The same fine as in the case of absence from the 'fyrd,' was imposed for failure to co-operate in the 'burh-bôte' *viz:* 120 shillings.[5]

The third obligation, the 'bryc-geweorc' or 'bricg-bôte,' the repairing or maintenance of bridges has given rise to some discussion. The necessity of it is evident for the constant warfare made the rapid passage of rivers a distinct advantage, while the frequency and impenetrability of the wooded lands made manœuvring elsewhere than in the beaten paths a matter of difficulty. That the Saxon laymen themselves built bridges

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[1] *Cnut*, 77. Schmid, *Gesetze*, 314.

[2] The term 'wall' had the meaning of both *vallum* and *murus* and refers to stone, not earth-work. Heyne, *Lage*, 12, 13; also 19, 20 for construction.

[3] Seebohm, 135. [4] *Aethelstan*, II, 13. [5] *Cnut*, II, 65.

may be questioned, for from the evidence of the charters and the chronicle we should conclude that the ford was a common means of passage. But if the Roman influence was anywhere permanent it was in the great roads, which covered the whole country like a network, and of these the bridges which crossed all the larger rivers were a necessary part. We know that such were in existence in Bede's time and the necessity of their maintenance would be evident not only to the warriors but to the Benedictine monks as well, whose knowledge of engineering would be turned to good account in keeping in order the works which the Romans had left. No monastery was exempt from the *trinoda necessitas* and we know that particularly in the uncultivated regions the work of the monks in building roads and bridges made large regions accessible to the merchant and the traveller and none travelled more than did the monks themselves. In the case of the thegns as well as the monks the labor may well have been confined to the roads and bridges in the immediate vicinity of the estate. There is no way of determining whether there was included in the 'bryc-bôte' the repair of the roads also; it is not impossible, though from the point of view of necessity there would have been less call for such work than for that which kept the bridges in repair.

These were the duties which summoned the thegn from his estate to take part in the protection and internal strengthening of the kingdom.[1] These were considered as a religious duty

[1] The duties are expressed in many different ways in the charters and laws as for example:

. . . . excepto communi labore expeditione pontis arcisve codificatione.

. . . . excepto quod omnibus commune est pontis arcisve instauratione.

. . . . præter arcem pontem expeditionemve.

. . . . and fyrðe and brycge and fester geweorc hewe swa man ofer eall folc.

. . . . and burh-bôta and bricg-bôta and scip-forðunga âginne man georne and fyrdunga eâc swâ â þonne þearf sŷ for gemænlîcre neôde. (*Cnut*, II, 10).

. . . . Burh-bôte oððe bricg-bôte oððe fyrd-fare. (*Cnut*, II, 65).

þegenes lagu is þæt he sŷ his bôcrihtes wyrðe; and þæt he þreô þinc of his land dô; fyrd-færeld and burh-bôte and bryc-geweorc. (*R. S. P.*, I).

imposed upon the landed proprietors to earn thereby the mercy of God,[1] and Leo calls attention to the holiness of bridges in heathen Germany.[2] These were the duties which even a transformation from folcland to bôcland could not remove, though at least in theory such transference cancelled all those obligations incident to folcland, which have already been noted. Were this, however, a fixed and definite rule it would not be easy to explain the remainder of the passage in the *Rectitudines*, where the author goes on to state other obligations which fell upon the thegn in other parts of the kingdom. His words are as follows: "Also from many lands more land-service arises at the bann (bidding) of the king, such as deer-hedging at the king's hâm, accoutrements for 'fyrd' duty, guard of the sea-coast and of the lord's tent, guard duty in the 'fyrd,' alms-money, kirkshot and many other different things."[3] Either these form simply an extension of the *trinoda necessitas* or else the writer not having a clear conception of the duties arising from bôcland and folcland has included under 'land-riht' obligations which fell upon lands of both kinds. The former view we consider the more probable for the military system demanded that such duties should be performed by the holder of bôcland. In fact there is occasional corroboration of this view elsewhere. Eadweard in 977 granting land to his *comes* Aethelweard names as the obligations the 'fyrd,' the fortification of castles and the guarding of the sea-coast. The

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It is not necessary to discuss the question of the Roman origin of the *trinoda necessitas* as advanced by Coote, *Romans of Britain*, 245–246, 260 ff. Scrutton, *Influence of Roman Law*, sums up the whole matter when he says, "The undoubted and curious coincidence between the *munera* and the *trinoda necessitas* cannot be placed higher than a coincidence," 72. Compare Stubbs, *C. H.*, I, 82, note.

[1] *Aethelred*, V, 26.

[2] Leo, *Rect.*, 191.

[3] Êâc of manegum landum mâre landriht ârîst tô cyniges gebanne, swilce is deôr-hege tô cyniges-hâme and scop tô friðscipe and sæ-weard and heâfod-weard and fyrd-weard, almesfeoh and ciric-sceat and mænige ôðere mistlîce þingc, *R. S. P.*, 1, (friðscipe is probably for fyrdscipe; this is Schmid's and Leo's reading. Compare *Aethelred*, V, 1 § 1.)

last mentioned is clearly 'sæ-weard' while the land is bôcland.[1] Cnut's law is explicit in its statement that the holder of such land was to serve off the land as well as on it,[2] and this is supported by another charter which definitely states that the destination of the expedition was against pagan *i. e.* foreign coasts; and this charter also includes with the building of castles their destruction as well.[3] In this demand of ship-service the accoutrements would be supplied by the thegn for himself and for his retinue, while the duty of guard-service would be an understood incident accompanying attendance on the 'fyrd.' The meaning of the 'heafod-weard,' head-watch, is not so clear. Noted here among the burdens belonging unquestionably to military duty it would seem to imply a special attendance as a guard about the person of the king, in fact the very part played by the *comites*, the gesithas, in time of war.[4] Schmid, however, considers it as a duty in peaceful times incumbent upon all thegns, whenever the king was journeying in their territory, an obligation to provide a guard for his person for a certain number of days.[5] If this be true then this was a burden which was certainly demanded from the holders of folcland, although the evidence is not sufficient to warrant us in supposing that these duties were incident to folcland only. What was the nature of the deer-hedging is only conjectural. Probably it consisted of attendance upon the king's hunt as well as the construction and maintenance of the fence or hedge surrounding the king's hunting park; this we know was of so great an extent that it was often contiguous to or even embraced portions of land held by large num-

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[1] . . . . excepta expeditione arcisve munimine et vigiliis marinis. Earle, *L. C.*, 295.

[2] *Cnut*, II, 78.

[3] . . . . expeditione contra paganos ostes et pontes constructione seu arcis munitione vel destructione, *C. D.*, 216. Earle, *L. C.*, 100–101; also Birch, *C. S.*, I, 485.

[4] Compare *Bēowulf*, 2909.

[5] Schmid, *Glossar*, 607 s. v., Heafod-weard.

bers of the country thegns. This burden also was closely analogous to those incumbent upon folcland with, however, this vital difference; the duties mentioned in the *Rectitudines* are all to the king, not annual but occasional at the king's bidding. They would almost seem to be incidents of a feudal tenure; they are not a part of the administrative system of the kingdom; they concern no one save the king and his thegn; they do not appear to have been universal to holders of bôcland for they varied with the different parts of the country and were elsewhere even greater than is here given.

These were secular duties; the charter exemptions went no further, they say nothing of the religious obligations; they release the land *omni saeculari gravidini* and leave to the Church the imposition of its own burdens. But that which the latter demanded the law soon sanctioned and the payment of the ecclesiastical dues became binding upon every freeman. Nothing is said in the *Rectitudines* about tithes[1] and the most important payment mentioned is the kirk-shot which corresponded to the first fruits of the Jews.[2] This the thegn paid to the Church at Martinmas, the eleventh of November, at the rate of eight bushels to the hide or one bushel to the bovate or oxgang; it would be interesting to know if there were any connection between the eight bushels composing the kirk-shot and the plough-team of eight oxen. As early as the time of Ine we find these dues recognized by law and a penalty of 60 shillings imposed in case of neglect, payable probably into the king's fiscus, while to the Church twelvefold the original amount was to be given by the delinquent;[3] this was enforced upon every one who had occupied a free

[1] On tithes see Lingard (Ed. 1845), *A. S. Church*, I, 181–190.

[2] *Deut.* xxvi. It is clear, as Lingard points out, that kirk-shot corresponded to the first-fruits from the letter of Cnut, *Mon. Hist. Brit.*, I, 597. In festivitate S. Martini primitiæ seminum ad ecclesiam sub cujus parochia quisque degit, quae Anglice cyricsceat nominatur. For the history of the custom of offering the first fruits see Frazer, *Golden Bough*, II, 376-384.

[3] *Ine*, 4, *Aethelred*, VIII, 11.

house and hearth the Christmas preceding.[1] Besides the kirk-shot the thegn paid to the Church almsfee, a due which may have corresponded to the plough alms or the payment of a penny yearly[2] from each plough-land, on the fifteenth day after Easter at the latest.[3] No other dues are mentioned as required from the thegn, but we may presume that among the "many other different things" were included light-shot at Candlemas and soul-shot at the open grave.[4] The general oversight of the thegn's payments to the Church seems to have been under the charge of the king's gerêfa and the bishop,[5] while the payment from the freemen of the estate was under the supervision of the thegn himself, his gerêfa and the mass-priest.

Such was in brief the duty and the service which the medial thegn performed toward the king, the state and the Church. He held it as a principle that it was an honor to serve him who was above him in rank and the higher ceorls looked to their individual lords in much the same manner as did these lords look to the king. Among the higher thegns the connection with the estate was not, we may suppose, a very close one. They had little to do with the life on the manor, and the same was true only in a lesser degree of the medial thegns; everything was conducted by the gerêfa. Each thegn received his revenues, entertained his guests, occasionally conducted great feasts in the hall of the mansion, to which his dependents were summoned and at times inspected his property, and, as the estates

[1] *Ine*, 61; Schmid, *Glossar*, s. v. *ciric-sceat*, 545–546; Kemble, *Saxons*, II, Appendix D.

[2] *Aethelstan*, 1 § 4.

[3] *Eadgar*, II, 2; *Aethelred*, V, 11; VI, 16; Wulfstan, *Sermones* (Napier ed.), 116–117, 208.

[4] *Aethelred*, VIII, 12, 13; Lingard, I, 192.

Nothing is said in the *Rectitudines* of the heriot of the thegn, and as it is doubtful whether the heriot was a general incident of the right of thegnhood it is not improbable that none was demanded at the thegn's death. Gneist, *English Constitution*, I, 33, note 4[a]; Stubbs, *C. H.*, I, 174.

[5] *Aethelstan*, I, 4; *Cnut*, 1, 8.

were often large in extent received hospitality at the hands of his tenants. But at this time his life was at the court, his duties were toward the king and he was always absent in time of war.[1] Therefore it was necessary that there be some responsible head, who should have immediate charge of the estate, particularly if the thegn were the owner of many estates scattered within the kingdom. This subordinate was the gerêfa or reeve, and the name at once suggests one of the most important of the Anglo-Saxon functionaries. The title 'gerêfa' was one of varied meaning and seems to have been a general term for the administrative officer exercising both fiscal and judicial functions. The word itself probably belongs to a class of words signifying companionship, but it early took on an official character and one rarely finds it rendered in the Latin by other words than *praefectus* (Bede) and *praepositus*.[2] For this reason the word is used as an official title applicable to a wide range of official duties, from the highest to the lowest; such as high-gerêfa, possibly corresponding to the *missus* of Charles the Great,[3] or to a kind of high steward or *praefectus*;[4]

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[1] It is not easy to understand the exact sense of *Ine*, 51, according to which whenever the thegn journeyed he took with him his gerêfa, his smith —who looked after his weapons—and his child's nurse. Did the gerêfa always accompany the thegn when the latter was away from the estate? If so, who cared for the affairs on the manor? It is hardly probable that 'gerêfan' is for 'geferan,' yet the Latin text reads *socios*. The translator is probably in error, yet it would be more intelligible if the thegn was accompanied by his companions rather than his gerêfa, unless we are to suppose that the manorial system such as we find it in the *Rectitudines* was undeveloped at this time, and that the position of the gerêfa was, so far as his duties were concerned, wholly unsettled and in process of crystalization.

[2] In an eighth century gloss 'geroefan' is rendered by *censores*, (C. 283), *commentariensis* (C. 637), *proceres* (P. 827). Hessel, *Eighth Cent. Gloss. Latin-Anglo-Saxon.* It is evident that each of these words refers to the official character of the gerêfa.

[3] Kemble, *Saxons*, II, 156. For a more accurate discussion than that of Kemble, see Schmid, *Glossar*, s. v., gerêfa, where are given all references to the laws.

[4] Stubbs, *C. H.*, I, 139, 371–372. Birch, *C. S.*, nos. 318, 377.

shire-gerêfa, next in importance to the ealdorman; the port-gerêfa, burh-gerêfa[1] and wic-gerêfa, the *praepositi* of sea-ports, cities and independent villages;[2] tûn-gerêfa and swân-gerêfa, the latter meaning undoubtedly, not as Kemble has it, the gerêfa of the swain-môt or forest court, but a sort of supervisor of the mast-woods and pannage.[3] That officer which is of special interest here however is the gerêfa, who, probably identical with the 'tûngerêfa,' as the officer who had charge of the tûn, was the *praepositus* of the lord's estate, the agent, the steward. Under his charge was the entire management of the demesne land and the land in villeinage, the regulation of the proper times and seasons, times of ploughing, harvesting and preparing for the winter. The seasons varied in different districts and the author of the manual, the *Gerefa*, which throws so much light upon the nature of the gerêfa's duties, especially cautions him to keep himself informed upon these subjects.[4]

All that concerned the tûn was to be always under his careful supervision. He was "to know all things small and great, both in town and in down, in wood and in water, in field and in fold, both in and out" as the manual says.[5] Such supervision concerned all phases of the estate life, not only the external but the internal. The gerêfa was to look after the

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[1] Stubbs, *C. H.*, I, 99–100.

[2] 'Wic-gerêfa' is of very doubtful meaning.

[3] Kemble, II, 177. Schmid, 598, e. Earle, *L. C.*, 285–287. *Studies in Anglo-Saxon Law*, 327–328.

[4] and ælcre tilðan timan ðe to tune belimpð; for ðam on manegum landum tilð bið redre ðonne on oðrum; ge yrðe tima hrædra, ge mæda rædran, ge winterdûn eac swa, ge gehwilc oðer tilð. *Gerefa*, 1. Town- or village-gerêfa is hardly an accurate translation of 'tûngerêfa.' As the manual constantly shows, the 'tûn,' while doubtless including the village, was primarily the manor enclosure.

[5] ac he mot ægðer witan ge læsse ge mare, ge betere ge mætre ðæs ðe to tune belimpð, ge on tune ge on dune, ge on wuda ge on wætere, ge on felda ge on falde, ge inne ge ute, *G.*, 3. This is a splendid example of alliteration and jingling of words.

house and the dairy and all matters pertaining to the storing up of food and supplies for all seasons, such as grain, pork, lard and all things that might be at any time useful.[1] He was to provide all utensils in general use, the majority of which were made on the farm, though some of the finer and more expensive might be obtained on rare occasions by exchange, or be brought from foreign countries or commercial towns and paid for in the coin of the land. Certain of these might have been procured from the monasteries, where, as we know, more skilled workmen were employed.[2] Yet such interchange must have been of rare occurrence; for the larger number of the estates had little or no intercourse with the industrial life abroad. The gerêfa, according to our author, was not to be too slack nor too proud,[3] for such pride might lead him to neglect the small things, and if that should happen in refe ence to the stall and the court soon would it happen in the barn.[4] He was furthermore to be a man of decision of purpose as well as judicial firmness and intellectual insight. He was to maintain his control over the men beneath him through a liberal use of the power delegated by the lord, and at the same time he was to be familiar with the customs and the folk-right, in order that he should not in his decisions or actions run counter to any well-seasoned usages. The constant reference to the 'folcriht' shows how deeply seated was the common law which existed in the relation between the

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[1] Ac ic lære þæt he do swa ic ær cwæð; gyme ægðer ge ðæs selran ge þæs sæmran, þæt naðor ne misfare, gyf he wealdan mæge, ne corn ne sceaf, ne flæsc ne flotsmeru, ne cyse ne cyslyb, ne nan ðera ðinga ðe æfra to note mæge. *G.*, 4.

[2] Turner, Anglo-Saxons, II, 246. In the colloquy of Archbishop Aelfric of the tenth century, the monk says: "My companions are smiths, iron-smiths, goldsmiths, silversmiths, coppersmiths, wood-workers and many other workmen of various crafts." Wright-Wülcker, *Vocab.* 99.

[3] Gyf he wel aginnan wile, ne mæig he sleac beon ne to oferhydig. *G.*, 3.

[4] for ðam to soðe ic secge, oferhogie he oððe forgyme ða ðing to beganne and to bewitanne, ðe to scipene oððe to odene belimpað, sona hit wyrð on berne þæt to ðam belimpað. *G.*, 3.

tenants and their lord and how necessary it was for the sake of the tenantry that the gerêfa be fully cognizant of what was the custom upon the estate, since it so greatly differed throughout the English kingdom, and also that he keep himself posted regarding the laws passed by king and Witan. The opening words of the manual express this most clearly, "The intelligent gerêfa shall know both the lord's land-right and the customs of the people, according as they have been declared at the meetings of the Witan in the older days."[1] It was no slight part of his work in the maintenance of these laws and customs to keep the men at labor and to prevent any insubordination on their part. It would have been only natural had some agrarian difficulties arisen and one cause of the rapid commutation which took place in the fourteenth century was the increasing inconvenience to which the lord was put in forcing the copyholders to perform the labor which was required of them. The words of the manual give every indication that similar troubles were not uncommon in these early times. The gerêfa was not under any circumstances to allow the laborers, the gebûras and cotsetlas, to control or have power over him; if he failed in maintaining his authority it would be better to be out of office than in, as in the latter case he would be a hindrance rather than a help to the lord.[2] In short this general survey indicates that the gerêfa was the busiest man on the estate, constantly at work for the benefit and advantage of the lord,[3] everywhere useful and on the lookout for something that it was necessary to do; taking care that nothing was neglected even in such small matters as a mouse

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[1] Se scadwis gerefa sceal ægðær witan ge hlafordes landriht ge folces gerihtu, be ðam ðe hit of ealddagum witan geræddan. *G.*, 1.

[2] Ne læte he næfre his hyrmen hyne oferwealdan, ac wille he ælcne mid hlafordes creafte and mid folcrihte. Selre him his æfre of folgoðe ðonne on, gyf hine magan wyldan ða ðe he scolde wealdan. Ne bið hit hlaforde ræd þæt he þæt ðafige. *G.*, 7.

[3] He sceal snotorlice smeagean and georne ðursmugan ealle ða ðing ðe hlaforde magan to ræde. *G.*, 2.

trap or the pin to a hasp. And with these injunctions the author does not exhaust his subject for he says that it is difficult for him or anyone to tell all that must be thought of in order that the gerêfa be a true steward of his lord's 'hâm' and a temperate overseer of men.[1] That such caution was greatly needed we get many indications from the Institutes of Polity where the writer complains bitterly of the injustice and thieving propensities of all the gerêfas.[2]

Three questions arise in this connection which need examination. How was the gerêfa appointed, what was the character of his holding and what was his relation to the administration of justice? Regarding the first question we have but the slightest indications upon which to base an answer. In the *Gerefa* there is a reference to the lord's power as the source of authority.[3] In the parable of the unjust steward it is the gerêfa, the tûngerêfa, the scîrman, whom the lord threatens to remove.[4] This would seem to indicate an appointment by the lord and the presumption is that he was selected from among the gebûras upon the estate, although it is a well attested fact that in later times the lord only exceptionally appointed or nominated the reeve. The gerêfa of Saxon times was less the representative of the villagers than of the lord and consequently he corresponds rather to the 'seneschal' and *balivus* than to the *praepositus* of Fleta; to the 'seneschal' and 'baliff' rather than the 'provost' of the Senes-

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[1] Æfre he mæig findan on ðam he mæig nyt beon and ða nytte don ðe him fylstan scylan; huru is mæst neod þæt he asece, hu he yrde mæge fyrme geforðian ðonne ðæs tima sy. *G.*, 8.

Hit is earfoðe eall to gesecganne þæt se beðencan sceal ðe scire healt; ne sceolde he nan ðing forgyman ðe æfre to note mehte: ne forða musfellan ne, þæt git læsse is, to hæpsan pinn'; fela sceal to holdan hames gerefan and to gemetfæstan manna hyrde. *G.*, 18.

[2] *Institutes of Polity*, § XII, also § XI. Thorpe, *Anc. Laws and Institutes of England*, II, 319-320. The writer says that since Eadgar died there were more robbers than righteous among the gerêfas.

[3] 'mid hlafordes creafte.' *G.*, 7.

[4] *Luke*, XVI. See above p. 55, note 3.

chaucie. It is extremely probable that in Saxon times before the differentiation had taken place the duties performed by each of the later officers were undertaken by the one functionary, the gerêfa, who was appointed by the lord from among the gebûras. In the Boldon Book the *praepositus* was selected from the tenants, either the villein's[1] or *firmarii*.[2] There is no mention here of the *balivus* known in Fleta. In the Custumals of Battle Abbey we find the *praepositus* chosen by the lord from among the customary tenants and in consequence of his duties a reduction was made in the number of his obligations, that is, he was released from certain dues incumbent upon other customary tenants.[3] Yet it is evident that after the Norman Conquest and the increase in the number of manors under single lords a change took place, which as pertaining

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[1] *Boldon Buke* (Greenwell, ed. Surtees Soc.), 21, note 2. The gerêfa was consequently liable to be transferred with the land. No mention of other than *praepositus* is made in *Burton Chartulary* or *Liber Niger*. In the latter he has charge of the vacant lands and determines the settlement of the villeins, *Liber Niger* (In *Chron. Petroburgense*, Stapleton ed. Camden Soc.), 162, 164. For the reeves in Domesday see Morgan, *England under the Normans*, 91–96.

[2] *Boldon Buke*, 11, 12, *villani* and *firmarii* are quite distinct. Duodecim *firmarii* sunt ibidem, qui tenent xii bovatas et reddunt firmam sicut *villani*, 16. The *firmarius* paid less in money and labor, his due was mainly a food-rent.

[3] *Custumals of Battle Abbey*, xxix, 66. Memorandum quod dominus potest pro voluntate sua quem voluerit de customariis eligere in Præpositum, et qui tenet integram virgatam terrae relaxibitur ei de redditu suo quinque solidorum xl d. A *praepositus* is mentioned among the *cotarii* at Sandon. *Domesday of St. Paul*, 19. In the *Burton Chartulary* he is a *villanus*, 25, a *censarius*, 30. Compare Vinogradoff, *Villainage*, 157, 356.

Walter of Henley says, "If you must choose a baliff or servant, do not choose them for kindred or liking or other reasons, if they are not of good reputation. . . . Have no provosts or messors except from your own men, if you have them and that by election of your tenants, for if they do wrong you shall have recovery from them" (Lamond ed.), p. 10. "The provost ought to be elected and presented by the common consent of the township as the best husbandman and best approver among them," *Seneschaucie*, (in *Walter of Henley*, Lamond ed.), 96–98.

to the manors of the greater landholders is described in Fleta.[1]

Instead of the 'hlaford' and gerêfa as in the *Rectitudines* there were the seneschal—the lord's deputy—the baliff who took the place of the old gerêfa, the foreman, who retained the old named of *præpositus*, and who was elected by the customary tenants from among themselves.[2] But while this multiplication of officials may have been necessary for the larger estates there can be no doubt that the simpler administration, as we have seen it upon the Anglo-Saxon estate still continued to survive, as the author of the Husbandry expressly says.

That the gerêfa possessed a holding would naturally follow from the conclusion that he was selected from the tenants upon the estate, and this view is strengthened by the fact that no description of the rights and obligations of the gerêfa are anywhere given; he was himself merely one of those whose relations to the lord, the land and the Church are elsewhere given in detail in the *Rectitudines*. There is, moreover, a distinct reference to such a holding. "So shall the good overseer (scirman) his lord's [possessions] support. Let him however do with his own as he will. The more diligent he is so much the more worthy will he be if he hath wisdom common with the wise men."[3] Thus the gerêfa had land which he held in

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[1] *Fleta*, II, Chs. 72, 73, 76. A good résumé of the account of the baliff and reeve in Fleta is given in Ashley, *Economic Hist.*, I, 10–13. The account is either an interpolation by Walter of Henley, or a compilation from the writings of Walter of Henley and others.

[2] On large estates of three centuries later instead of the hlaford, gerêfa, bydel and brytta we have the lord, seneschal, baliff, provost, bedel, messor or hayward. In the *Seneschaucie*, the work of an unknown author of the thirteenth or early fourteenth century we find the offices of seneschal, baliff, provost, hayward, lord, auditors, ploughmen, waggoners, cowherd, swineherd, shepherd and dairy maid described in great detail. *Cf. Husbandry* (in *Walter of Henley*), 65.

[3] Swa sceal god scyrman his hlafordes healdon, do ymbe his agen swa swa he wylle. A swa he gecneordra swa bið he weorðra, gyf he wið witan hafoð his wisan gemæne, *G.*, 5.

some form of tenure and such may have been his normal holding or have been given as a recompense for added duties. The further statement that it would be better for him to be out of his office than in if he could not maintain his authority would point to a precariousness of tenure not unlike that maintained in the Boldon Book.[1] Further than this we can hardly go with safety. The gerêfa was probably either a gebûr or cotsetla, and it seems more probable that he was of the former class.

Concerning the third question we seem to be wholly in the dark and in fact it opens a subject too broad for our study. The question of pre-Norman manorial jurisdiction is involved in obscurity and as yet the clouds have not sufficiently cleared for us to introduce any satisfactory discussion here. There is in the documents before us but the most shadowy hint at a manor court and a possible reference to frank-pledge, though were it not unlikely that a manor of this kind would be without jurisdictional authority of some kind we should place comparatively little dependence upon these indications. We may indeed believe that even if no deliberate grant of 'sac' and 'soc,' 'toll' and 'team' took place either by charter or writ—by the former none before the Norman Conquest—nevertheless manors exercised the jurisdiction which these words imply as a result quite as much of their historical development as of any definite royal concession. It is agreed that the township, the village, had no court; that the court of the manor was no mere continuation of an original free folc- or mark-môt. Even the existence of the primitive village-môt is not very clearly proven and

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In the *Burton Chartulary* the *praepositus* held bovates *ad opus* either in the inland or ûtland, thus he was a villein and not a cottar. We may apply this to the *Rectitudines* and say that the gerêfa was a gebûr and not a cotsetla, *B. C.*, 18, 22, 25.

[1] Wilhelmus praepositus tenet in Cornford ii bovatas pro servitio suo, et cum praeposituram dimiserit reddit 4 s. de firma et pro quadam alia bovata quam ibidem tenet, *B. B.*, 12.

even if it were a connection with the manor court could not be satisfactorily maintained. Village meetings and courts possessing rights of jurisdiction and justice are quite distinct bodies and it must be confessed that notwithstanding the authority in their support the antiquity of the courts leet and baron is now more and more questioned.[1] This is, however, debatable ground, for it is wholly problematical what forms of jurisdiction were possessed by a manor, which had no grant of 'sac' and 'soc.' That very early in the tenth century manors did possess some kind of a court is evident from the use of the word 'gemôt-hûs' to signify the manor house at a date some time before any grants of which we have record were made.[2] In the Latin translation of the *Rectitudines* the 'in-heorde,' the herd of swine belonging to the dominical part of the manor, is rendered *dominicum gregem curiae*, an expression which points to a manor house in which was held a court, a 'halimôt' of the tenantry, over which undoubtedly the gerêfa, as deputy of the lord presided.[3] As the right to hold a court for one's tenants was involved in the word 'soc' and the right to the fines arising from the judgments of such court in the word 'sac,' it seems not unlikely that from the document itself we may infer the existence of a right of jurisdiction, exercised in a manor court, which we cannot at this time call either court leet or court baron, as it is probable that this differentiation had not as yet taken place.[4] That such jurisdiction involved also 'toll' and 'team' is not unlikely;

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[1] Maitland, Introd. to *Select Pleas in Manorial Courts.* Pollock, *Macmill. Mag.* Vol. 61, 418–420; also *Oxford Lectures*, V. Maitland, in *Archæolog. Rev.*, III, 234. Elton, *Custom and Tenant Right*, 89. Allen, *Mem. Vol.*, 261, 275–276, 316, adopts Elton's views. Maitland goes a step further than Allen, and denies the antiquity of the court leet. Pollock supports Maitland's opinion, *Macm. Mag.*, 61, 418.

[2] Birch, *C. S.*, II, 246, giving charter of years 900–901.

[3] *R. S. P.*, 7.

[4] Maitland, Introd. to *Select Pleas*, xxii. Earle, *L. C.*, xxiii–xxiv. Kemble, *C. D.*, I, xliii–xlviii. Vinogradoff, *Villainage*, 364–368, 385–387.

such might readily grow up if not expressly granted, for these concerned especially the relation between the lord and villeins. 'Infangethef' and 'utfangethef' as extensions of the criminal jurisdiction, 'flymenafyrmth,' and the other parts of the formula given in Kemble are foreign to the main point here taken, which is the presence of a court with the gerêfa as the judge. Two passages in the *Gerefa* seem to give to that functionary a definite judicial position. He was required to be cognizant of the local customs and the laws of the land; and he was to take heed that he preserve the peace (þæt he friðige).[1] But there is another document edited by Dr. Liebermann which appears from internal evidence to refer to the gerêfa of an estate. This document treats of the just judge and the date is conjectured to be approximately 1000 A. D., that is of about the same date as that of the *Gerefa* and *Rectitudines*.[2] We need not enter into all the good advice which the author offers to the gerêfa and his lord; a brief analysis will answer. The gerêfa was to be just and merciful, just in order to determine the penalty of the guilty, and mild-hearted that without undue severity he might measure out the punishment.[3] There should be no personal prejudice; neither riches nor poverty, love nor hate should influence him in interpreting the folk-right.[4] Money was evidently the great source of corruption and the author declares nothing to be more dangerous than this,

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[1] Hede se ðe scire healde þæt he friðige. *G.*, 2. *Cf. Inst. of Pol.*, § XII, where we find gerêfas under their lords setting up laws which the writer considers unjust.

[2] *Zeitschrift der Savigny-Stiftung für Rechts-geschichte, Germ.* V, 207–214, containing an introduction, the text with Latin and German translations, 1885. The Latin translation has been reprinted by Dr. Liebermann in *Quadripartitus, ein englisches Rechtsbuch von* 1114. 141–142.

[3] Ælc man, þe riht deme ð, he hæfð wæga on handa; and on ægðere sceale he byrþ rihtwisnesse and mildheortnesse. Ærest for ðære rihtwisnesse he gerece ð ðæs gyltes bote and þonne for ðære mildheortnesse he gemetega ð þære scylde wite. § 1.

[4] Domas sceolon beon butan ælcere hadarunge; þæt ys, þæt he ne murne na ðer ne rycum ne heanum, ne leofum ne la ðum folcriht to recceanne, § 3.

for "money blindeth the wise man's heart and perverteth the just man's word."[1] Above all was the lord (ealdorman, *dominus*) to be heedful lest he place in position foolish or unjust judges,[2] for the unjust judge was more greedy for the property (yrfe) of the tenantry (hyrmen, *cf. Gerefa*, 7) than was the (Danish) heretoga.[3] The judge was not to have evil assistants (gingran), for then he himself might fall because of the sins of his subordinates.[4] One graphic picture we may give in full. "Often also the evil judges because of their greed postpone the judgment or turn it aside and do not end the law-proceedings until that their purses be full: and then when they give a judgment look they rather upon the reward than upon the legal procedure."[5] It is in striking accord with the words of the Institutes of Polity when the author says that it was the custom of evil gerêfas to take whatever they could and to leave with unwillingness even the least little to the famishing.[6] With further caution to the gerêfa that he let not his wrath dim the brightness of the law,[7] and with the injunction not to consider the rank (mæð)[8] or the reputation (geðincþo)[9] of a suitor, he concludes with a promise of the eternal reward to such as are humble before God.[10]

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[1] Nys nanwiht unrihtlycre ðonne ys þæt man medsceattas onfô for domum; forðan þe ða medsceattes ablendað þæra wisra manna heortan and hi forcyrrað ðæra rihtwisra manna word, § 4. Compare *Aethelstan* V, 1 § § 2, 3.

[2] § 8. [3] § 9.

[4] § 10. This seems to refer to the lord as the judge and the gerêfa as the subordinate, if the Latin text is to be relied on. Compare Aethelstan's command at Greateleya. Si tunc sit aliquis, qui tot homines habeat, quod non sufficiat omnes custodire, praeponat sibi singulis villis praepositum unum, qui crédibilis sit ei et qui concredat hominibus, III, 7 § 1, Schmid, 149.

[5] Oft eac ða ðwyran deman for heora gitsungæ þone dom geuferiað oððe hyne awendað and ne geendiað nâ þa spæce, ær heora seod bið afylled; and þan þonne hy demað, ne scewiað hy nâ þa spæce, ac þa medsceatas, § 11.

[6] Yfelra gerefena þeaw ys þæt hî nymað ælcwiht and uneaðe hi þam þearfiendum lytles hwæt læfað, § 13.

[7] § 14. [8] § 15. [9] § 16. [10] § 17.

The vagueness of the advice shows that it had no definite application and it is with some uncertainty that we apply it to the gerêfa of the manor. Lieberman however has done so and the Latin translation offers strong evidence in favor of this view. The ealdorman is the *dominus*, the gerêfas are *praepositi*, the hyrmen are *familiarae*. In paragraph 10 the judge is spoken of as the lord himself. The evidence is not however so conclusive but that we may refer its useful injunctions with equal probability to all the gerêfas included, for example, in the command found in the *principium* to Eadward's laws, where the king enjoins upon all gerêfas that they judge such just dooms as are known to be most righteous and as are found in the doom-books and that they do not fear to pronounce folk-right.[1]

Enough has now been said to show the importance of the position of the gerêfa upon the estate; a position irksome with arduous duties and one which, as we may well suppose, was not greatly sought after, if we can trust the analogy of later times, when the gerêfa had sunk to be the foreman of the tenantry and when his duties had been divided between the *balivus* and *praepositus* of Fleta.[2] Outside of the welcome detail of the *Gerefa* our knowledge of this official is meagre and somewhat obscure. The laws throw but little light. According to them the gerêfa determined the guilt or innocence of a slave,[3] could swear for his lord,[4] had supervision over the purchase of cattle

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[1] Eâdwerd cyning bŷt þâm gerêfum eallum, þæt ge dêman swâ rihte dômas swâ ge rihtoste cunnon and hit on þære dômbêc stande. Ne wandiað for nânum þingum folcriht to geregceanne, and þæt gehwilc sprâc hæbbe andagan, hwænne heô gelæst sŷ, þæt ge þonne gereccan. The wording of this passage is very similiar to that of the document above quoted, *Cf. Ine*, 8.

[2] This is evident from a comparison of their duties. It would not be an uninteresting task to compare the words of the *Gerefa* with those of *Fleta*. There is much of the same good advice in both. Non ergo sit piger vel somnolentus sed efficaciter and continuè commodum domini adipisci nitatur, 76 § 1. Regarding the unwillingness of the tenantry to accept the office of foreman see Ashley, *Econ. Hist.*, I, note 22, p. 52.

[3] *Wihtræd*, 22. [4] *Aethelred*, I, 1 § 2. *Cnut*, II, 30 § 1.

and the cattle pasture,[1] had to retain and hand over all notorious characters fleeing from justice, and if himself detected in plunder or robbery was fined double.[2]

The functionary next in importance to the gerêfa was, if we interpret the evidence rightly, the bydel or beadle.[3] It is not very clear what his duties were, but they probably included those of a modern petty constable, messenger or crier and errand runner.[4] They were certainly more elaborate than were those attached to the same title in the thirteenth century. A separation of duties has taken place, for the mediaeval beadle did little errand-running, while among the duties of the villeins in the Boldon Book that of "going on the bishop's errands" (*vadit in legationibus Episcopi*) is of common occurrence. In Eadgar's laws one specific official duty is to be found.

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[1] *Eadmund*, III, § 5.

[2] *Aethelred*, VII, 6. Chancer's description of the reeve in the Prologue to the *Canterbury Tales* is worth quoting in part. Prol., 589-622.

> Wel cowde he kepe a gerner and a bynne;
> Ther was non auditour cowde on him wynne.
> Wel wiste he by the drought, and by the reyn,
> The yeeldyng of his seed, and of his greyn.
> His lordes scheep, his neet and his dayerie,
> His swyn, his hors, his stoor, and his pultrie,
> Was holly in the reeves governynge, 593–599.

[3] This order is repeatedly followed in later documents. Ellis, *Introd. to Domesday*, calls the bydel the under-baliff of manors, I, 247. In *Domesday* we see the following order:

Ibi erant viii praepositi et viii bedelli.

Ibi praepositus et bedellus (*D. B.*, 180, 180b) held two yard-lands and two carucates. In *Domesday* there are found 85 praepositi villarum and 22 bedelli.

[4] In Anhang IV, § 19, Schmid, *Gesetze*, bishops are called bydels and teachers of God's law, *Cf. Institutes of Polity*, § V. Thorpe (*Anc. L. and In.*), II, 308. In the *Ormulum* John the Baptist is Christ's Bidell, sent to prepare the way for his Lord. *Ormulum*, 97, 683, 9157, 9189, 9533–9534. In the gloss bydel = *preco*, crier, W.-W., 333.12.

The bydel is known to have exercised his office at Bampton from the thirteenth century to the present time; but he was rather the officer of the lord, whose distresses he served on the *averia* of defaulters. *Archæologia*, XXXIII, 278.

If the gebûr was behind in the payment of his gafol, the bydel was the one sent to remind him of it.[1] In the Anglo-Saxon Gospels, in the sentence, "lest he hale thee to the judge and the judge deliver thee to the officer (*exactor*) and the officer cast thee into prison," the 'officer' is the bydel.[2] Therefore we may conjecture that he was of considerable importance as an assistant to the lord and his gerêfa; that he collected the gafol, made all announcements and communicated all commands from headquarters to the tenants in the village and possibly aided in the execution of justice. That the position was one entailing much labor the *Rectitudines* itself shows, for the bydel was to be always ready and at hand when wanted. He was himself one of the villagers, gebûr or cotsetla, and for his work he was released from some of the burdens which fell upon the class of tenantry to which he belonged. This exemption shows that his position was of official importance next to that of the gerêfa. For his work he was given a portion of land; either in addition to that which he already possessed or, as is quite as likely, a holding in the common field, which may represent his first allotment. By 'land-stycce'[3] we understand the strips, which formed the virgate and represented the holding of a gebûr, so that the lands of the bydel would be in the open field, though if he had held a full yard-land it is probable that we should be so told.[4]

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[1] *Eadgar, Leg. Eccles.*, IV, 1 § 2.

[2] *Luke*, XII, 58. In *Matthew*, V, 25, the officer is the þegn, but each rendering is the literal translation of the Vulgate. In *Matthew* the Latin is *minister*, in *Luke*, *exactor*.

[3] See the discussion in Chapter IV of the land of the haward. The use of 'stitches' for the open field strips in provincial dialects may perhaps be traced to the above A. S. form.

[4] Bydele gebyraþ, þæt he for his wycan sŷ weorces frigra þonne ôðer man, forþân he sceal beôn oft ræde, eâc him gebyreð sum land-stycce for his geswince. *R. S. P.*, 18.

Some have interpreted 'wycan' as signifying a weekly tenure of office, but this is not necessary, as 'wycan' has the signification of oversight or supervision and refers to the duties of the office.

So long as the gerêfa was the sole overseer in charge of the estate there seems to have been employed a system of delegating work to others among the laborers for a stated period of time. The gebûr or other so commissioned seems to have been called the 'brytta,' a name which implies nothing more than the dispenser or overseer.[1] It is presumable that there were others to whom was given a kind of oversight of certain phases of the farm work, for the gerêfa could hardly have had direct supervision over detailed labor of this kind. The brytta was not an officer properly so called, his services were demanded only on special occasions and we rarely find any mention of similar duties performed on the late mediaeval manors.[2] The work was temporary, only while the season lasted and the position may have been a coveted one as the brytta received certain perquisites for his labor. The bere-brytta or the villein who had charge of the storing and threshing of the grain in the barn is the only one of these laborers mentioned in the text, and to him was given any refuse which had fallen off at the barn door. Probably his task was to direct the threshing and mowing-away of the grain and to keep an account of the loads or baskets upon the tale or notched stick. But he could not command even the refuse which fell to his lot unless the lord (ealdorman) considered that he had fairly earned it by strict attendance upon his duty.[3]

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[1] Leo, *Rect.* 114, says: "brytta (for brýta, breôta from breôtan, to divide, break up) means a distributor, dispensator, as is clear from the derived word bryttian, frustatim dispensare, gubernare."

[2] There is indication of similar laborers in the *Boldon Buke*; overseers of the mowers and reapers and supervisors of the boon-work or precations.

Walterus Crok vi acras et reddit 3s. 2d. et vadit in legationibus Episcopi, et est *super operarios ad falcandum* et *metendum.*

Rogerus homo Gilberti de Midilham ix acras et reddit 5s. et vadit legationibus et est similiter *super operarios.*

Galfridus iv acras et reddit 2s., et est *super operarios ad precationes.* p. 28. These were probably free tenants.

[3] Bere-bryttan gebyreð corn-gebrot on hærfeste æt bernes dure, gif him his ealdormann ann and he hit mid getŷwðan geearnoð. *R. S. P.*, 17.

Turning from these members of the estate, to whom was given the general oversight and charge of manorial affairs, and passing from the manor house and the dominical lands to the village and the lands in villeinage we find ourselves within a compact hamlet or hamlets, where lived the laborers, the ceorls proper, to which class the gerêfa, bydel and brytta belonged. These were the simple freeman, who formed the mass of the army, in large part the legitimate descendants of those who had composed the rank and file of the Saxon invading host. They were in a semi-servile condition and some among them were probably slaves in the technical sense of the word. The study of the economic life of this village group is slowly assuming very definite proportions and from what appears to be at first sight great confusion, hopeless of disentanglement, there is gradually emerging—thanks to Mr. Seebohm and others—an orderly, fairly symmetrical system, with its main features clear and comprehensible. At the same time it must be confessed that there are many secondary features and some that are primary which are still very much in the dark.

The laborers who lived in the village and whose field of activity was the open arable around them are divided by the *Rectitudines* apparently into three classes, geneâtas, gebûras and cotsetlas. The identification of these classes has been one of the problems, which can hardly be said to be solved yet with entire satisfaction. A careful description of each class is given in the text and no serious difficulty is encountered so long as we content ourselves with this description and make no attempt to trace the origin or later development of these divisions of the tenantry. It is when we discover that the manor grew according to some definable process from primitive conditions and that it did not cease to undergo change

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On the waste or refuse compare *Walter of Henley.* "Make your provosts and barnkeepers fill the measures, so that for every eight bushels a cantle shall be left for the waste which takes place at the putting in and taking from the barn," 16.

and modification with the year 1000 that the difficulty begins. For it is now fully realized that we are studying the same institution which is described in the *Rectitudines* and *Gerefa*, when we examine the manorial system of Domesday, the Burton Chartulary, the date of which is not later than 1113, the Liber Niger, of a decade and a half later (1125-1128), the Boldon Book, before the close of the century (1183), the Glastonbury Inquest of 1189, not to mention later chartularies and extents and descriptions of husbandry. It is this latter fact, that the tenantry mentioned in all these manorial records must so far correspond as to show that each represents but a stage in the development of English agricultural life, that has led to the attempts which have been made to identify the different classes of laborers and to bring the geneât, gebûr and cotsetla of the *Rectitudines* into line with the others. For there certainly has been too strong a feeling among scholars that the Norman Conquest was a great economic dividing line and that the condition of local life found in the year 1000 was of no practical importance in understanding the latter economic history.[1] There is however no reason to believe that the Norman Conquest created any changes in the life of the village group or the working of the village custom. Except for a few plunderings and burnings—notably the harrying of Yorkshire—the local life remained unchanged and the villagers went on cultivating as before and paying their dues and services with no real knowledge of the disturbances taking place in the kingdom at large. We learn from Domesday book that the lands of the thegns, which we have discussed, were conferred in great numbers upon the Norman baronage, which came over with the Conqueror. This dispossession of the lesser thegns altered in no way the

[1] Pollock fears lest we may now be erring in the other direction (*Oxford Lectures*, 135), and Vinogradoff points out many phases of influence exerted by the Norman Conquest upon the villeinage. *Villainage*, 133, 179. This does not, however, alter the general truth of the above statement.

life on the manor; the tenantry had a new lord to whom they paid their dues and for whom they performed their work as before. The village system passed through the shock of conquest uninjured, the peasantry were too near the soil itself to be touched by the changes which that conquest brought about, the influence of which was mainly seen in the strengthening of the administrative system and in the altered character of the social life of the higher classes. And therefore, to take the subject from another point of view, it is not legitimate nor historical, if the peasant classes passed the Norman Conquest practically unscathed, to look upon these classes as subjects for the antiquarian only or for the student of Merovingian or Carlovingian legal history. It is five hundred years back to the settlement and conquest; it is less than three hundred to the latest of the manorial records above mentioned and the changes in these three hundred years would be perforce far less serious than had been those of the previous era. For this reason attempts have been made to find in these records those classes, which correspond to the geneât, gebûr and cotsetla and it is to these attempts that we would for the moment turn our attention.

Maurer regarded the geneât as the successor of the gesith who had sunk from his earlier rank until he was lost in the general mass of the ceorls. This view, based as it was wholly upon the etymology of the two words, has no longer a place in the discussion.[1] Leo considered the geneât as a ceorl in the narrower sense of the word, a ceorl who was not only free but who could hold folcland as did the thegn, but not bôcland. Thus he conceived that the tenure, according to which the geneât held his land, was not a mere usufruct but a property; the land in the ûtland was his own. He further from the etymology considered him to have been an associate originally in the Mark with the lord himself, thus showing that he was in sympathy with the view current at that time, the view

[1] Maurer, *Kr. Ueb.*, II, 405–406.

which was followed by Kemble. The cotsetla also he located on the ûtland, with house and land, which he held not in full possession, as did the geneât, but in return for labor and service. Such holding was merely lênland though the cotsetla was personally free. The gebûr Leo also considered as free and as settled by the lord on the inland with the necessary house and field utensils; the agriculturist bearing the brunt of the labor.[1] Leo's careful analysis of the text of the *Rectitudines* has given to all his opinions a marked interest. Archdeacon Hale from the point of view of the thirteenth century saw in the geneât, cotsetla and gebûr the originals of the *villanus*, *cotarius* and *bordarius* of Domesday and he further considered the *liberi homines* of the Domesday of St. Paul to be the same as the *villani* and therefore identical with the geneâtas; thus he would find in the ceorls of the *Rectitudines*, first, the *liberi homines* or *villani*, second, the *cotarii* and third, the *bordarii*, monday-men, *operarii* of the Inquisition of St. Paul of 1222.[2] Mr. Eyton, though not expressly making a comparison, considered the Domesday *villani* to be the "highest of the classes which had no sort of freedom," a somewhat remarkable statement, which at once showed that he did not consider them in any sense *libere tenentes*, thus controverting Archdeacon Hale's statement. *Bordarius* Eyton declared to be only a Latinized form of the word boor, that is gebûr, in this case supporting Hale's view that the *bordarii* were identical with the gebûras,[3] an interesting conclusion, inasmuch as the usual statement has been that the term *bordarius* was derived from *bord*, a cottage. Jones, in the introduction to the Domesday for Wiltshire, thinking that it was impossible for any one gebûr to have performed all the services required of that class in the *Recti-*

[1] Leo, *Rect.* geneât, 119–120; cotsetla, 118–119; gebûr, 115–118.

[2] *Domesday of St. Paul*, xxx–xxxii.

[3] Eyton, *Key to Domesday*, 45–50. Greenwell early came to the conclusion that the *villani* were not the freeholders but the copyholders of later days. *Bolden Buke*, glossary, lxxi.

tudines identifies the class with the *cotarii* and *bordarii* of Domesday; he also identifies the geneât with the *villanus*, the cotsetla with the *cotsetus*.[1] Professor Allen, who devoted much time to the study of the rural classes of mediaeval England, considered it as perfectly well established that the geneât, the *villanus* of Domesday and the *custumarius* of the Extenta Manerii[2] were the same; that the cotsetla and gebûr were classed together under the single term *bordarius*, while the few instances of *cotarii* and *cotseti* which are found in Domesday were not enough to warrant the assumption that they represented the cottagers as a class.[3]

It will be noticed that in the above conjectures it has been taken for granted that the three terms in the *Rectitudines* represent three distinct classes and further it will be noticed that all agree that the geneât became the *villanus*, and the cotsetla the cottage-holder of the later records, by whatever name we call him. The main difficulty, therefore, seems to be the identification of the gebûr, and this is a difficulty indeed, for he formed from the agricultural point of view the most important element upon the estate. In Domesday there are found but 62 gebûras, a number too small, when compared with the others, to form a separate class. This is the Gordian knot which Mr. Seebohm has cut by a conception which is more than clever; a conception which may not be satisfactory to all, but which solves an otherwise inexplicable problem.[4] Instead of three classes Seebohm accepts but two, considering geneât to be merely a comprehensive term including both the others; that is, a term not representing a class in itself, but used somewhat as was the word 'ceorl' in its narrowest sense. Seebohm presents no argument to support this conclusion and it has not proved wholly acceptable, for the reason that the impression given by the classification in the *Rectitudines* and the *Consuetudines* at Dyddenham is that the geneât and gebûr

[1] *Wiltshire Domesday*, lxi–lxii.
[2] A. D. 1276.
[3] Allen, *Mem. Vol.*, 305–311.
[4] Seebohm, *V. C.*, 129–130.

represent distinct classes. But there is some evidence in its favor and a closer study of the historical manor seems to confirm it. First a very slight support is found in what is at all times an unreliable form of proof, the comparison of word-uses in the glosses. In the *Rectitudines* the term 'geneât' is translated *villanus*; in the laws of Ine *villanus vel colonus*,[1] while 'cyninges geneât' is translated *colonus fiscalinus*.[2] 'Ceorl' is also rendered *villanus*.[3] Elsewhere 'geneât' is glossed *inquilinus*[4] and *inquilini* is glossed *coloni*.[5] From this we might infer that the terms 'ceorl,' 'geneât' and *villanus* were general in their application, perhaps, taking 'ceorl' in its narrowest sense, used interchangably. But one of the most frequent glosses for 'gebûr' is *colonus*, the term which is above used in referring to 'geneât'; and 'tûngebûr' is glossed *inquilinus*,[6] which was also used above for 'geneât.' The logical deduction from this would be that 'geneât' was synonymous with 'gebûr' and *villanus* synonymous with *colonus*. Yet this is at best but a doubtful deduction for we have no certain knowledge that the Latin translations contain the full meaning of the Anglo-Saxon words. In two places in the laws 'geneât' seems to be given this general meaning; 'geneât-land' is the antithesis of 'thegn-land'[7] and 'geneât-mann' is referred to as the one to whom the bydel was to be sent if the gafol was not paid at the right time.[8] Furthermore we shall see when we examine the text in detail that neither in the *Rectitudines* nor in the *Consuetudines* at Dyddenham was the wording of the 'geneât-riht' of a character to bear direct application. The

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[1] *Ine*, 22. [2] *Ib.*, 19. [3] *Ib.*, 60.
[4] Hessel, I, 244. [5] *Ib.*, I, 245. [6] W.-W. 111, 16.
[7] *Eadgar*, II, § 1. Hermann on this point says, "Ebenso gewiss aber ist, dass daraus keinswegs die Folgerung zu ziehn ist, als ob Edgar's Gesez geneât in einem weiteren, den kotsetla mit umfassenden Sinne gebraucht," 130. To accept this view would not accord at all with Hermann's theories. This is the only indication that Hermann has seen Seebohm's work. One may doubt if he knew of it at all, he certainly has not profited by it.
[8] *Eadgar*, IV, 1, § 1.

statements are of the most general nature; there is no definite information regarding either the amount of land held or the work to be performed. If therefore Mr. Seebohm's view be correct, and we are certainly justified in accepting it as a working hypothesis, the problem is rendered comparatively simple. The gebûras become the *villani* of Domesday, the cotsetlas become the *bordarii* and *cotarii*, for the two terms are interchangeable[1] and the first one hundred and fifty pages of Mr. Seebohm's own work are a proof of the importance of this conclusion.

In accepting, however, the above hypothesis, a modification presents itself not derived from any *a priori* conception, but arising naturally from the evidence which has been and is to be examined. It is that the term 'geneât,' historically considered, included only the gebûr and was an earlier form something like 'ceorl' itself signifying the main body of Saxon freemen; that the cotsetla was of later origin and did not form an organic part of the composite germ, which was the origin of the manorial group. If this be true, and there are, as the remainder of the chapter will show, certain indications in its favor, then the gebûras will prove to be, from the historical point of view, of all the tenantry the most interesting; they certainly have the remotest ancestry and are of the most distinguished lineage.[2] The laws show us their existence from the earliest days, while of the cottager from the laws alone we would know nothing before the *Rectitudines*. The gebûr was the gafol-paying tenant, the cotsetla was not, and as the 'geneât-riht' mentions the land-gafol among the general obligations of those to whom the formula applied, we may simply say that the formula concerned originally those who became the payers of gafol, that is the gebûras, the ceorl in their capacity as tenant-agriculturalists. Notice the character of the references which we have to the payers of gafol, and the land from which it was due and it will be seen that the

[1] Ellis, *Intr. to Domesday*, I, 83. [2] See page 152, note 7.

terms 'ceorl,' 'geneât' and 'gebûr' are used as applying to the same class of tenantry. In the laws of Ine the gebûr and the gafol-gylda are one and the same person;[1] in Aelfred and Guthrum's Peace it is the ceorl who lives on gafol-land and has 'lisungas' or slaves under him.[2] On the estate at Hysseburne the ceorls paid gafol and the nature of their services shows them to have been gebûras.[3] At Dyddenham the gebûr alone is found while the formula which introduces his services is so far as it goes identical with that of the *Rectitudines*, and these gebûras are gafol-gyldas.[4] As late as 995 the same expression occurs, "the gebûr who on gafol-land sitteth"[4] and in the Abingdon Chartulary such land, which in the laws of Eadgar is called geneât-land, is known as 'burland.'[5] Then too these same sitters on geneât-land *i. e.*, the 'geneât-menn,' were payers of gafol and so must have been gebûras.[6] These references certainly raise a presumption in favor of the view that 'gebûr' was but another name for the ceorl or geneât, who made up the original community group.[7] There is very

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[1] Gif he þonne on gafol-geldan hûse oððe gebûres gefeohte, xxx scill. tô wîte geselle and þâm gebûre vi scill. *Ine*, 6 § 3.

[2] . . . . buton þâm ceorle, þe on gafol-lande sit, and heora lêsingum . . . *Aelfr. and Guth. frið.* 2. In the parable of the unjust steward, *Luke*, xvi, when the stewart feared to lose his 'gerêfscîre,' þa þa gafol-gyldan gegadernde wæron, that he might gain their good will by a reduction of their gafol.

[3] See p. 167. The fact that the ceorl was the general name for those who occupied the village and cultivated the soil is attested by the frequent use of the term in the nomenclature of the boundaries; on ceorles hlawe, Birch, *C. S.*, I, 47; in ceorla pytte, *Ib.*, 304; on ceorles beâme, *Ib.*, 515; on ceorles lewe, *Ib.*, 545; on sot ceorles æcer, *Ib.*, II, 242; on ceorla geat, *Ib.*, 495; ceorla tun frequently found, Kemble, *C. D.*, VI, 269.

[4] Þenne an hio ðan hiwum ðara gebûra ðe on ðam gafol-lande sittað, *C. D.*, 12[illegible].

[5] *Chron. Abingd*, I, 180.

[6] Gif geneât-manna hwilc forgŷmeleâsað his hlafordes gafol . . . . *Eadgar*, IV, 1, § 1.

[7] From 'gebûr' is derived our word 'boor' and from 'neah-gebûr' our word 'neighbor.' Dutch influence, however, is here to be seen, as gebûr would, according to the laws of historical grammar, give 'bower' rather than 'boor.'

little mention of the cotsetlas as a class (except in the *Rectitudines*) during the entire Anglo-Saxon period and no mention whatever of lands peculiar to them, as in the case of 'geneât-land' and 'burland;' after Domesday, however, mention of such land is frequent.

There is furthermore a lack of close organic connection between the cotsetlas and the lord, just as their holdings, which were, if we may so call them, irregular, formed no organic part of the peculiar field system, which must go back to the time of the settlement itself. Therefore it is at least worthy of consideration whether in relation to this opening formula and the mention of land-gafol in it, we have not to do with the gebûras alone, the original geneâtas, the rank and file of the Saxon people.

Let us turn, therefore, to the 'geneât-riht' and determine the character of the duties therein contained. The services of the ceorls in general seem to be expressed in a kind of formula, containing easily remembered generalizations, which are exceedingly interesting as showing the nature of the life upon the estate. In fact the formula briefly and sententiously epitomizes, often in alliterative form, the services which are demanded from the tenantry, occasionally adding to the information contained in the sub-sections which follow it. But there is nothing in the formula that is definite, that is, capable of direct application to any particular class. One duty alone seems to be at all exact in its nature, and that is the payment of the grass-swine yearly to the lord. This seems to point to a particular obligation applicable to a class, as no mention is made of it in the sub-sections, where the more specific duties are to be found. But a little investigation of customs on post-Domesday manors soon shows that the payment of the grass-

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The root is Indo-European and kindred words are found in most Germanic languages. This tenacious and wide-spread use of the word seems to strengthen the view that the gebûr was the representative of the main body of Anglo-Saxon freemen.

swine was a common tax upon the tenantry as a whole for the privilege of using the manor woods for mast. Therefore it could not be the obligation of any particular class. This payment continued to be made late in the middle ages, until it was finally commuted for money.[1] The other statements are in agreement with the view we have taken of the general character of the geneât-right. The payment of land-gafol points to the time when the gebûras alone made up the village group before the advent of the cotsetlas who paid no gafol. In addition the ceorl was to ride, to do carrying service,[2] to lead loads[3] and drive droves.[4] Such duties would appear to be the necessary carting, riding and driving the oxen or herds incident to all farm work of any season of the year and might be done in person or with the ceorl's own outfit. In addition he was to reap and mow, to work and support his lord, either by supplying food for the manor,[5] or as seems quite as probable by furnishing some sort of accommodation or entertainment; to help in hedging the deer-park by hewing and setting the stakes (this park may have been the lord's own or the king's, located

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[1] *Domesday of St. Paul*, lxviii. Hale says: "Garsavese, a word used at a later period as synonymous with pannagium, a fee for permission to feed swine in the woods," and he thinks it a corruption of 'gærs-swŷn.' On the commutation of this payment for money, *Cust. Battle*, 149; *Cart. Glouces.*, III, cii–ciii. For an interpretation of Aelfred's will involving the 'gærs-swŷn' and for a good specimen of the author's method, Hermann, 144.

[2] *Averian*, This was the carrying of corn or goods on horseback or on foot to market. See *Rot. Hundred*, II, 602, 628; also *Domesday of St. Paul*, lxvi, 81.

[3] A familiar expression and service in later custumals. Hermann's interpretation of this as the performance of knightly attendance upon the lord is absurd.

[4] Added from the *Consuetudines* at Dyddenham.

[5] 'Feormian' was the payment of food, either for the support of the lord or for his entertainment. Vinogradoff is inclined to think that the origin of the custom goes back to the earliest times "when a Saxon or a Celtic chieftain got his income from the territory under his sway by moving from one place to another with his retinue and feeding on the people for a certain period." *Villainage*, 301–303.

adjacent to the mansion or in the wood-belt beyond); to keep watch of the hedge when set, that is to look out for repairs; to join in building the hedge about the 'burh,' the house and its outbuildings; to aid in erecting the houses in the village or the outhouses in the 'burh.' The ceorl was also to make new roads in the village, or between the village and the lord's tûn; to act as errand-runner, a duty which may point to the functions of the bydel, or it may be that each ceorl was liable to service of this kind. Perhaps the most interesting part of the whole formula is the military service mentioned at its close. As the thegn did guard-duty at the tent of his king so the ceorl did guard-duty at the tent of the thegn; and as the king had his horse-thegn, so the lesser thegn found a horse-geneât among his tenantry, a ceorl who maintained 'hors-wearde.' This must refer to the time when the thegn was called away to do service at the 'fyrd.' We know that he took certain of his people as retinue, for the charters occasionally specify the exact number.[1] From which class they were taken or how selected we do not know, but it is improbable that they were neither gebûras nor cotsetlas but others, landless, dwelling on the inland of the estate and forming the lord's followers. Last of all are mentioned the church dues, the kirkshot and almsfee, already discussed in connection with the thegn.[2]

The chief work in the field about the village and manor-house fell upon the gebûras. They formed the bulk of the agricultural field-hands, and, though nominally free as com-

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[1] Kemble, *C. D.*, I, lii. We have been unable, however, to discover in the charters of Coenwulf the passages to which Kemble refers.

[2] Geneât-riht is mistlîc be þâm þe on lande stænt. On sumon he sceal land-gafol syllan and gærs-swŷn on geâre, and rîdan and âuerian and lâde lædan, wyrcan and hlâford feormian; and rîpan and mâwan, deôr-hege heâwan and sæte haldan, bŷtlian and burh hegegian, nîge faran tô tûne feccan, cyric-sceat syllan and almes-feoh, heâfod-wearde healdan and hors-wearde, ærendian, fyr swâ nŷr, swâ hwyder swâ him mon tô-tæcð, *R. S. P.*, 2.

Se geneât sceal wyrcan swâ on lande swâ of lande hweðer swâ him man byt and ridan and auerian and lâde lædan, drâfe drîfan and fela ôðra þinga dôn. At Dyddenham, *C. D.*, III, p. 450. Birch, *C. S.*, III, 102.

pared with the slaves, their position was one of great hardship. As has already been suggested they may have formed originally the main body of the Anglo-Saxon ceorls, those who made up the 'mægth' community, who fought in the conquest, not in *turmae et conglobationes* but in *familiae et propinquitates*. The meaning of 'geneât' contains the same implication of association in a common group and this idea is carried out in the term 'geneât-land,' which we conceive to have been older than either of the other terms, 'gafol-land or 'gesettes-land,' each representing, not exactly a stage in the development, but rather a process by which the later conditions were attained. Regarding this process we know with certainty almost nothing. There is no evidence in Aethelbirht's laws to suggest the payment of gafol by the ceorl. He may have done so even as early as this, but there is no indication of it. We see in these laws the ceorl and his flet; we find mention of his 'birele' or maid-servant, his 'hlaf-æhta' or dependent and probably his esne or slave. There is no mention of gebûr, or gafol or gafol-land. The term 'ceorl' in its broadest sense may have included at that time the thegn-class, for the distinction between thegn-born and ceorl-born comes in much later. The 'ceorl' in Aethelbïrht, Hlothar and Eadric and Wihtræd is one folc-free, though still in the condition of a half-christianized Saxon, above the slave but below the eorl and the gesithcund man. There is also the mention of hâm, tûn and gerêfa and the latter probably corresponded to the gerêfa of later times. Eadric died in 687, Wihtræd in 725, and with his death ended the period of Kentish independence. Contemporary with Wihtræd was Ine, king of Wessex, who reigned from 688 to 725, and it is in his kingdom, among the West-Saxons, that we meet with the first indications of a gafol-paying tenantry, at a period about 300 years before the *Rectitudines*. Here also we discover the first mention of the admission of an outside ceorl into the village-groups. In these laws therefore we find the manorial growth well developed, either from serfdom upward or from freedom downward. We see the gebûr as a

'gafol-gylda,' who cannot leave his lord without permission;[1] we see the village with the homesteads and outhouses[2] occupied only by gebûras;[3] we see each homestead hedged[4] and preserved to the family from generation to generation.[5] We see the common meadow for the gebûras[6] and an indication of the land held in strips, which is called the gesettes-land;[7] we see the ox-team[8] and the process of introducing new tenants upon an estate;[9] we see the theôw, esne, the wite-theow and the 'wealh-man;'[10] in fact nearly every feature of the manor life of the *Rectitudines*. If slow in Kent the manorial growth had been rapid in Wessex. Such difference will serve to explain the statement in the *Rectitudines*, that the duties differed according to the locality where the estate was situated and according to the precedents which had gradually grown up upon that estate. The putting of these precedents into writing form a kind of codification of existing manorial custom and the first of such custumals, of which we have any record is in 900 A. D., just a hundred years earlier than the *Rectitudines*. But the laws of Ine were 200 years before that, and although we find in them all the elements which composed the later manor, we certainly cannot say that there is to be found at so early a date the hardened state of serfdom which appears in the tenth and eleventh centuries; we have the gafol and yardland, but no clear indication of the labor, upon which the whole question turns.[11] We do not know that

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[1] *Ine*, 3, 39. [2] *Ib.*, 57. [3] *Ib.*, 40.

[4] *Ib.*, 40. One translation of 'weorðig' is *curiola; Quadripartitus*, 109.

[5] *Ib.*, 38.

[6] *Ine*, 42. 'gærs-tûn,' This word has survived in the place-name Garston (*Archaelog.*, XXXIII, 270). It is frequently mentioned in the charters, as 'gærstun,' 'gærstun-landes,' or to take a specially good example, *pratum quoque, quod Saxonice Garstone appelatur.* Birch, *C. S.*, II, 349, also *Ib.*, I, 540, 548; II, 162.

[7] *Ine*, 64, 65, 66. [8] *Ib.*, 60. [9] *Ib.*, 67. Seebohm, *V. C.*, 142.

[10] A Cornish man, either settled as a gebûr or a slave. *Quadripartitus*, 108. *Cf.* above p. 76.

[11] See above pp. 67–69.

the relation between lord and tenant had become of such a character as to require an enrollment of services; nor even in the tenth century do we know how universal such enrollment was. We should probably exaggerate this relation were we to draw inferences from Frankish practices, for it is plain that Roman influence on the continent had consequences which cannot be applied to England and it is probable that this enrollment of services began first on the royal and ecclesiastical manors.

The obligations of the gebûr were divided into three distinct groups, the gafol, the *precariae* and the week-work, with certain additional duties which can hardly be classified. These payments and services were obligatory, though practically they were the gebûr's return for the land and outfit allowed him. First of all the week-work. The gebûr was obliged to give two days out of each week in labor upon the lord's land, that is, upon that portion of the demesne land which lay, as we have already seen, to a considerable extent in the open fields. This was the weekly custom throughout the greater part of the year. But in autumn, at harvest time, when the pressure was greatest, he worked, as did the cotsetla, three days in the week, and the same was true in the spring from Candelmas (February 2nd) to Easter, because this was the principal season for ploughing. In addition to the regular week-work at harvesting and ploughing the gebûr was obliged to plough as gafol three acres and sow them from his own barn and also during the general ploughing-time from February to November—although apparently little ploughing was done during August, September and October—he was to plough one acre each week, in all about forty acres. He was also to prepare the seed in the lord's barn by threshing and winnowing it. Thus it is seen that the week-work consisted mainly of ploughing and the preparation of seed.

Second as to the *precariae*. In addition to the ploughing already mentioned there was the 'bene-work,' which was later

called boon-day work, love-boons, bedrips and *precariae.*[1] These were additional services which the lord at first asked for, and then demanded, a demand which soon hardened into a customary obligation. They furnish an interesting example of the creation of services without legal rights. In the case before us we have only the 'ben-earth,' the ploughing of three acres of arable, in addition to which was the ploughing of two acres of grass-land, the latter probably in return for an allowance of grass from the common meadow, in case the right of pasture which went with the holding did not furnish a sufficiency for the cattle which the gebûr wished to feed. This is borne out by the statement which follows: "If he need more grass, then will he plough for it as it is permitted him."[2] Such ploughing is, strictly speaking, to be carefully distinguished from the gafol-ploughing spoken of above. If there was needed a convincing proof of the character of the life on the mediaeval manor and the predominant part played by the agricultural interests it would be found in this amount of ploughing which was required of the gebûr in the course of the year. From this collected evidence we see that it was the main service which the gebûr was called upon to perform. But it was not the only

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[1] Et unam precariam quae dicitur ben, in *Inquis. S. Pauli* (*Domes. St. Paul*) 33. In the Hundred Rolls bedrips and love-boons occur, *Rot. Hund.*, II, 652. These were *precariae* or extra services performed in ploughing and harvesting, so called because the tenants were requested to labor at first as a favor. We find also the terms 'alebedrips' and 'metebedrips,' which refer to boon days with ale and meat respectively, which seem to have generally accompanied the second asking. *Domes. St. Paul*, cxxxv; Rogers, *Agric. and Prices*, I, 75; *Cart. Glouces.*, III, ci–ciii, and *passim.* These services were occasionally termed 'nedbedrips' and a fourth *precaria*, when a fourth was required, which was rare, was styled 'hungerbedrip,' probably because on that occasion food was furnished to the tenant by the lord, which was never the case at the first *precaria* and not invariably at the second or third. *Cust. Battle.* Glossary. So disagreeable did this 'ben-earth' become to the villeins that we find it occasionally spoken of as 'unlawenearth' and 'godlesebene.' *Cart. Glouces.*, III, 115; Vinogradoff, *Villainage*, 282.

[2] gyf he mâran gærses beþyrfe, þonne earnige þæs, swâ him man þafige. *R. S. P.*, 4, § 1.

service. In addition, during the winter from November to February, that is, when no ploughing was done, the gebûr was to take his turn at watching the fold, which may have been near the manor or, as was not impossible, at a distance in one of the enclosed fields, where the danger was chiefly from thieves and wolves.

These duties complete the amount of labor which the gebûr performed for his lord, but there was still the third division of his obligations, the gafol. We have spoken of the gafol-ploughing; there was also the gafol in kind, payments in money and produce. These were as follows: at Michaelmas, the 29th of September, ten pence; at Martinmas, the 11th of November, twenty-three measures (sestres) of barley and two hens; on Easter Sunday one young sheep, a yearling from the flock which the lord allowed him, or, if he preferred, two pence. To the Church he paid on Holy Thursday, Ascension day, the hearth-penny, commonly called Peter's-Pence.[1] In some districts the gebûr could pay a larger part of his gafol in produce, such as honey, flesh or ale, payments which would vary with the character of the staple peculiar to each region. This would indicate that the gebûras in other parts of England spent more time, than on the manor of the *Rectitudines*, in the raising of bees and beeves and the manufacture of ale. The only additional obligation to be noted is that each gebûr supported the swine-keeper who drove the herd belonging to the lord to the woods for mast, by paying him six loaves of bread, and with another gebûr each fed and took care of a hunting hound.[2]

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[1] See Introd. to *Domes. St. Paul*, cxvi-cxviii. Wulfstan, *Sermones*, (Napier ed.) 116. This was usually paid on the festival of S. Peter ad Vincula.

[2] Gebûr-gerihta sŷn mislîce; gehwâr hŷ sŷn hefige, gehwâr eâc medeme; on sumen lande is, þæt he sceal wyrcan tô wic-weorce II dagas, swilc weorc swilc him man tæcð ôfer geâres fyrst ælcre wucan, and on hærfest III dagas tô wic-weorce, and of Candel-mæsse ôð Eâstran III;

He sceal syllan on Michaeles mæsse-dæig X gafol-pen., and on Martinus mæsse-dæg XXIII systra beres and II hen-fugelas, on Eâstran ân geong sceap oððe II pen., and he sceal licgan of Martinus-mæssan ôð Eâstran æt

Now it is important to know what was the 'settene' or outfit which the gebûr received for the above labor and gafol. It consisted of two parts, the land and the stock or outfit proper. The former is referred to as a yard of land, a 'gyrde-landes' and this etymologically is closely connected with the virgate.[1] In the majority of cases therefore the yard-land would consist of about thirty acres, though as has already been said in discussing the units of measurement, it cannot be considered a uniform measure; in the thirteenth century virgates of 15, 16, 18, 24, 40, 48, 50, 62 and 80 acres were known.[2] This yard-land or virgate was a bundle of thirty acre-strips, more or less scattered throughout the three fields. This, as Mr. Seebohm has abundantly proved, was the normal holding of the *villanus*, and consequently of the gebûr, and with this holding went rights of common in the waste of the manor, of pannage and mast in the words, of gathering underwood for fuel and repair of fences, and scrubbed oak for the repair of posts and gates, the latter privileges commonly known as the right of estovers. Regarding the origin of this remarkable arrangement we can only conjecture. It does not seem possible that Mr. Seebohm's conclusions which he has so confidently presented to us, are to be accepted as applicable to Saxon conditions.

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hlâfordes falde, swâ oft swâ him tô-begæð, and of þâm tîman þe man ærest ereð ôð Martinus mæssan, he sceal ælcre wucan erian I æcer, and rædan sylf þæt sæd on hlâfordes berne; tô-eâcan þâm III æceras tô bêne and II tô gærsyrðe; gyf he mâran gærses beþyrfe, þonne earnige þæs, swâ him man þafige.

His gafol-yrðe III æceras erige and sâwe of his âganum berne, and sylle his heorð-pænig:

On sumen lande gebûr sceal syllan hunig-gafol, on suman mete-gafol, on suman ealu gafol.

. . . . twegen and twegen fêdan ênne heâdôr-hund, and ælc gebûr sylle VI hlâfas þâm in-swâne, þonne he his heorde tô mæstene drîfe. *R. S. P.*, 4 §§ 1, 2, 4. *Cf.* Seebohm, *V. C.*, 131–133.

[1] Mention of the yard-land is first found in Ine; the term is occasionally given in the charter boundaries, as, for example, 'yrd-land' in charter of date 826. Birch, *C. S.*, I, 548.

[2] *Staffordshire Hist. Coll.*, V, Pt. 1, xvii. Vinogradoff, *Villainage*, 239.

The evidence of co-operative ploughing and the distribution of the strips among the partners thus co-operating, belongs, even in Celtic law, to a later period, when there had grown up a very positive artificiality in the system of reclaiming new lands. Furthermore, the co-operative distribution finds no support anywhere in the Saxon evidence. If we may be allowed to draw conclusions from such indications as we have, including the system employed by the colonists in the distribution of their lands in America, we should say that the smallness and the scattered location of the open field strips came from a desire to make equable the holding of each, owing to the irregularities in the quality of the land divided. We must also take into account the compact, communal nature of the kindred group which gave to the system its regularity, for the idea of allowing every man his due is also borne out by the commonable rights which each possessed in meadow, pasture, wood and waste. Nasse says that the very constraint imposed by common tillage and fallow demands such division. Custom and the fact that the villein did not own his holding prevented the union of the strips, which thus remained scattered in all parts of the open fields.[1] This formed the regular holding of the gebûr, who lived on it from one year to another, whose house seems to have been by folk-right handed down from father to son, undoubtedly with the lord's permission, and if the lord did not furnish the gebûr a dwelling the latter might give up the land. But in this compact village group, by death and other means, vacancies would be created which must be filled and new lands,

[1] This desire to so divide the land that each man might have his just due is markedly seen in the original distributions of land in the older New England towns, but there was this important difference; the New England colonist, though receiving lots in every field, and rights in common and pasture, held them as his own property, disposable at will. It is gratifying to find that Professor Vinogradoff in a more elaborate discussion has come to practically the same conclusions as those presented above. *Villainage*, 233–235, 253–254, *Cf.* Nasse, 50.

essarts,[1] would be brought into cultivation and new tenants would be needed. There is clear evidence of the increase in the number of tenants on many of those estates in Domesday whose internal condition is given in later documents, and the creation of new manors would demand the settlement of gebûras upon them. Therefore the *Rectitudines* carefully states what was to be the allowance of such a tenant, who might seek a place in the village group or who might form one of the cultivators on a newly developed manorial estate, September was the month when the harvest was completed and the annual labors of the gebûr began their round. This therefore came to be the time when the old tenants paid their money-gafol and the new gebûr received his outfit and began his work. To the latter the following was the allowance. As a start and encouragement, that he might begin on an equal level with the other gebûras, he was given seven acres of land already sown in the winter field, which would be that one of the three fields undergoing cultivation at the time of his admission, and it may well be supposed that the new tenant would not have the seed requisite for the sowing of this part of his yard-land. But allowing thirty acres to the virgate the normal holding in the winter field should be ten acres, whereas seven only are mentioned. This problem Mr. Seebohm has solved with entire satisfaction. As the gebûr was not at first required to render the services (*rectitudines*) above given (a fact which is evident from the words "after that year he is to perform the services required,"[2] that is, of the other gebûras, and after the first year of himself also), the lord did not furnish to him the full ten acres, ploughed and sown, but estimated the three, which were given unploughed and unsown,

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[1] Manwood, in 1598, defines the essart as "the plucking up of those woods, by the roots, that are thickets or coverts of the forest, to make the same a plain or arrable land." *Forest Laws*, fol. 48. The word essart he thinks to be Norman from *assortir*, fol. 53.

[2] forðige ofer þæt geâr ealle gerihtu, þe him tô-gebyrigean, 4, § 3.

as equivalent to the three acres, 'gafol-yrthe,' which the gebûr would have been obliged under ordinary circumstances to plough for his lord and sow from his own barn.[1] In addition to the yard-land with its seven acres of sown wheat the gebûr was allowed, for the stocking of his allotment, two oxen, a cow and two sheep. Some seem to have owned a horse also and probably swine, though these are only mentioned indirectly and may have been purchased by the gebûr from his own earnings. The horse, we are told, was at the service of the lord, and when so employed, either in carting or going to market, was accounted as lessening by so much the labor of the gebûr; that is, while his horse was abroad, off the estate, the gebûr was not obliged to work for the lord, but could turn his attention to his own strips.[2] As to the swine it is presumable that nearly all the gebûras possessed them, both from the statement in the opening formula, and because of the prevailing use of pork and bacon among the peasantry. Lastly, all tools for his work and utensils for his house were provided by the lord through the gerêfa. When this was done the new gebûr became a corporate member of the village community, entered the ranks of the other villagers, joined in the field work and performed all the services required of him. An indication of his subordinate position is seen in the closing sentence, "When he dies, let the lord take back what he leaves." This refers not to the dwelling, as Hermann would have it,[3] but to the equipment, the outfit, that which was used in stocking the 'gyrde-landes,' for the house and land were already the lord's and there could be no thought of these as the property of the gebûr.

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[1] Seebohm, *V. C.*, 141. On þâm sylfum lande þe þeôs rædden on-stænt, gebûre gebyreð, þæt him man tô land-setene sylle II oxan and I cû and VI sceap and VII æceras gesâwene on his gyrde landes. *R. S. P.*, 4, § 3.

[2] gif he âferað, ne þearf he wyrcan þâ hwîle þe his hors ûte bîð. *R. S. P.*, 4.

[3] and sylle him man tol tô his weorce and andlâman to his hûse; þonne him forð-sîð gebyrige, gŷme his hlâford þæs he læfe. 4, § 3. Hermann, 128.

What has now been described illustrates with sufficient clearness the position of the gebûr. Therefore it may hardly seem necessary to extend the description further, particularly after the graphic picture which Mr. Seebohm has given of the manors at Dyddenham (Tidenham) and Hysseburne. Whenever the author of the English Village Community has touched an obscure phase of local custom, the obscurity has vanished and the custom has lost much of its archaic character and has become real. We cannot feel so content with the deductions drawn, but as it is not our purpose in this chapter to be argumentative and as the interpretation of the life on the Saxon estate does not demand that we enter into the question of its origin here, we will simply present whatever seems to be new in the only other Saxon custumals which we have. The *Rectitudines* expressly informs us that the customs already described held good only on certain lands not on all.[1] In fact nearly every phase of the 'land-riht,' the gafol, week-work, *precariae*, the outfit and allowance of the gebûr might be different on another manor. This will reasonably account for the variations and peculiarities which the other accounts present to us. Such customs were purely local, unless we accept Mr. Seebohm's view that they represent stages of a deeper serfdom. The gebûras at Dyddenham had little ploughing to do as week-work and no *precariae*. This absence Mr. Seebohm considers a mark of serfdom, but it was certainly a very short time, from 956 to 1000, for the 'ben-work' to have sprung up and to have hardened into the custom which we find it to be in the *Rectitudines*, and we may ask whether this hardening of voluntary work asked for by the lord into a service demanded by him is not rather a reversal of the process for which Mr. Seebohm has so ably argued. Furthermore the evidence seems unavailable for this purpose inasmuch as it requires that we consider the early economic development

[1] on þâm sylfum lande þe þeôs rêden on-stænt,—etc. 4, § 3.

to have been everywhere uniform, whereas we are confident that it was not so.[1]

If however there was little ploughing to be done on the Dyddenham manor there was considerable work required in the preparation of fish-weirs, which were of various kinds and were placed in the Severn, upon whose banks the manor lay. Forty large rods and one fother of small rods were to be provided for the construction of the weirs, which thus in a measure resembled wattle-work. The gebûr also built eight yokes and wattled three ebbs.[2] Upon the land there was due from him forty yards of acre-hedging, fifteen yards of ditching, and half an acre of mowing. As to the gafol which was paid we shall see that the author of the *Rectitudines* was right, when he said that in other parts there was paid a honey, meat or ale gafol. The gebûr paid six pence instead of ten, and half a sester of honey, six sesters of malt and one clew of good net yarn. From each weir there went every second fish to the lord, that is originally to the king,[3] as well as all fish of

[1] For an interpretation of the phrase "to work as they are bid" upon which Mr. Seebohm bases his main argument see Vinogradoff, *Villainage*, 298, where he shows with entire success that the expression does not "imply a complete servility of the tenant and unrestricted power on the part of the lord to exploit his subordinate according to his pleasure," but that it refers to the quality and not the quantity of the work; to the fact that during the days on which the gebûr was to labor the character of the work was undefined, and he was to do whatever the lord bade. Lewis, in *Ancient Laws of Wales*, says much the same thing: "It must be added that the statement that the Aillt was to be 'at the will and pleasure' of his lord does not necessarily mean more than that he was to be at the service of such lord according to the rules and customs which regulated such services." 39.

[2] For an explanation of the weirs see Seebohm, *V. C.*, 151–153. The yokes he does not understand himself. The ebbs may be described in his own words. The lessee of the fisheries pointed out "that when hackle weirs were used three separate wattled hedges would always be needed, as, owing to the various heights of the tide, the hedge must be differently placed for the spring tides, the middle tides and the neap tides respectively." 155.

[3] *Du Cange*, under *Styria*.

special worth, such as sturgeon or porpoise, herring or other sea-fish. No one was to sell a fish when the lord was at the manor, without his consent.[1] If the gebûr had as many as seven swine he was to pay three of them to the lord, and this was in addition to the 'gærs-swŷn,' which all the ceorls paid for mast.

This is a remarkably vivid picture of life on a manor, whose location can be positively determined and whose routine of work presents most valuable local peculiarities. At Hysseburne in Hampshire the condition of the ceorls was similar, though here too are to be noted important variations from the duties of the gebûras at Dyddenham and on the manor of the *Rectitudines*. At Hysseburne the tenants were simply ceorls but undoubtedly they were gebûras. Again no *precariae* are mentioned, and for week-work they were to labor when called upon, except during the week at mid-winter, at Easter and the Rogation days. The gafol was considerable. From each family-holding ('hiwisc')[2] forty pence, six church measures

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[1] Kemble, *C. D.*, II, p. 327; III, pp. 444, 450; Earle, *L. C.*, 375-377; Birch, *C. S.*, III, 102-103.

[2] It would be gratifying could we feel certain that Mr. Seebohm's conjecture was right, that 'hiwisc' stood for a yard-land, for it would simplify matters considerably. Unfortunately, as a conjecture, it does not bear the test of a closer examination; in fact the evidence is all the other way and seems to show that 'hiwisc' represented a hide or a family holding in the earlier sense. The references cited relate especially to 'hiwisc' in the sense of land and as taken from the laws and charters will give us at least the basis for an opinion.

In Birch, *C. S.*, II, 69, we read in a charter of the year 854.

> þat is ðanne erest on Bokland toun, fif hide in þe pennard, sex hides on Cotenes felda, an hywysc and on Cerawicombe and þoþer del of branok hyalf hiwisc and al þat oþer del.

In this case 'hiwisc' is not necessarily the same as hide but the presumption is in favor of it. The mention of half 'hiwisc' is interesting.

In Birch, III, 8, is the following:

> þonne east on þe ealdan dîc oþ idel hiwisce eastward.

of ale and three sesters of loaf-wheat. The services consisted of the ploughing and sowing of three acres and the storing-away of the produce. This is not called gafol-work but probably it is to be considered as such. In addition there was due three pounds of gafol-barley; and the ceorls were to mow half an acre of gafol-meadow, to carry the hay to the hay-ricks, to split four fothers of gafol-wood, to stack them in wooden ricks, to wash and shear sheep, and lastly to give two ewes with two lambs at Easter, reckoning two young sheep as equivalent to one old one. All this was to be done

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Nothing is indicated here except that 'hiwisc' is a portion of land. 'Idel' must bear some relation to the 'del' above, as indicating a division of some kind. Is it the divided 'hiwisc'?

In Birch, III, 139-140 is a more important example. The caption to the charter is as follows:

> þis his þara v hida boc æt Dydylingetune and þæs anes Hiwisces æt Uddingc þe Eadwig cing gebocode Aefrede his þeine on eche yrfe.

Immediately below this (p. 140) is the explanation in Latin.

> Id est v mansas ubi vulgariter dicitur æt Dydylingtune et unam mansam ubi vocitatur æt Uddingc.

Here 'hiwisc' is clearly the same as 'hide,' both are translated by the same word. Another interesting fact is given; 'hicwisc' was bôcland; it was land transferred by charter; it was not a general term for a family holding in this case at least.

One more reference may be noted.

> And gif Wilisc man geþeô, þæt he hæbbe hîwisc landes and mæge cyninges gafol forðbringan, þonne bîð his wergild cxx scill. And gif he ne geþeô buton tô healfre hîde, þonne sî his wer lxxx scill. And gif he ænig land næbbe and þeâh freôh-sŷ, forgilde hine man mid lxx scill.
>
> Schmid, *Gesetze, Anh.*, VII, 2, §§ 7, 8.

The conclusion here agrees with that given above; 'hiwisc' was a hide of land. Another version of the same law adds another idea. Instead of 'hiwisc' it says;

> gif he beô tô þâm gewelegod þæt he hŷrêd and êht âge,

that is if he possess family (household) and goods (property). Here the family idea comes out clearly and we should conjecture that the 'hiwisc' was only an approximately determinate amount of land, which always

in their own free time.[1] The date of this custumal is 900, fifty years before that of Dyddenham, and we cannot see that it indicates in a marked manner a greater condition of serfdom than that of the *Rectitudines.*

Here in these two accounts we have valuable confirmation of the variety of services, which troubled the author of the *Rectitudines.* We see that adjacency to good fishing waters, location in a sheep-rearing country or a country where the care of bees, beeves or the preparation of malt was prominent, determined the character of the labor of the gebûras and the nature of the gafol. We have information too regarding the hedge-work mentioned in the general statement of services, and we have, as has already been suggested, a support for the view that the gebûras represented the occupants of the original community group, the ceorls, the geneâtas. No mention is made of the cotsetlas, and we are not far wrong in supposing that they were of later origin.

Let us turn therefore to the cotsetlas to examine more carefully the evidence which the charters and laws furnish. We

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carried with it the idea of the household for whose support it was cultivated. The holder of an 'hiwisc' was a householder, while the holder of a hide was not at this time necessarily so. 'Hiwisc' and 'hide' were synonymous, but the former, so long as used, always preserved the idea which the other lost, its importance as a family allotment. Land apart from this was of little significance in the earliest times. The mention of the half 'hiwisc' would seem to confirm the statement that the 'hiwisc' or 'hide' was the original unit and that division took place when needed; the virgate was but a part of the hide. Is there any significance in the fact that the holder of a yard-land in the *Rectitudines* paid ten pence, the holder of an 'hiwisc' forty pence, when we know that the yard-land was a quarter of a hide, or is this a mere coincidence?

Kemble says that the hide or family estate was only given to married men, and he compares with this Othello speaking of his *unhoused* condition, that is, his bachelor estate; note also the fact that in early New England (1636) young men without families, that is bachelors, were required to join a household. Kemble, *Saxons,* I, 92. *Othello,* Act I, Sc., II. *Conn. Col. Records,* I, 8.

[1] *C. D.,* 1077. Earle, *L. C.,* 351. Birch, *C. S.,* II, 241.

have said that such a tenant is not known to the laws until the *Rectitudines* show him to us. The testimony from the charters modifies this somewhat. We know of no clear evidence for the existence of the cotsetla before 956. There are, however, three indications of an earlier date, which may refer to a tenant of this nature; they are 'liabinges cotum,' 'east coten' and 'eadrices coton.'[1] It is hardly possible to draw deductions from these words, for they may be used in much the same sense as in a charter of 868, where *cottagia* seems, with hardly a doubt, to refer to all the houses in the village, not to the houses of those who were later technically called cotsetlas.[2] Or they may refer, and this seems the most probable inference, to the cots of the herdsmen whose dwellings were adjacent to the pastures where they watched.[3] There is no certain mention of a cotsetla until the year 956 but from that time on his presence is well attested.[4] As to the origin of the class we have already conjectured that the cotsetla was from without and only occasionally from within; that he became a necessity to the lord as new portions of the pasture and waste

[1] The earliest instance of what might suggest a cottager is in a charter of the year 765; the term is 'leofecildes cot.' But this, whatever be the origin of the term, is the name of a pasture for swine. Birch, *C. S.*, I, 280. 'liabinges cotum,' Birch, *C. S.*, II, 232. 'east coten.' *Ib.*, II, 335. 'eadrices coton.' *Ib.*, II, 358.

[2] Birch, *C. S.*, II, 138. dono Siwardi in Kirby tres bovatas terrae unam mansionem et iii *cotagia;* and again in the same charter, Haec omnia praenominantur insulas, maricos et mersca, ecclesias et cappellas, maneria mansiones, *cotagia*, silvas, terras et prata.

[3] In Chapter IV, evidence is presented showing that the herdsmen probably had cots or dwellings away from the village near the pastures. We may note here the following from Aelfric's homily, *De Septem Dormientibus* (Early Engl. Text Soc., No. 77). The good man who owned the plot within which the cave of the sleepers was situated allowed ðær aræran ealle abutan ða dûne his *hyrde-cnapan cỳtan*, þæt hi ðær gehende mid heora hlafordes yrfe lâgon. p. 512.

[4] The first mention of the cotsetla is in a charter of the year 956 and then six are mentioned together. þonne to þam stodfalde þanne to seofan þornum þonne to smalan wege and on lacing and syx *cotsetlan*. Birch, *C. S.*, III, 111. *Chron., Abingd.*, I, 214.

were brought into cultivation. Such cotters as are noted in the charters—if these are not herdsman as were those above—have their dwellings along the borders, in the essarts, a location, which in itself would be a striking breach in the old system.[1] Many too held within the village and cultivated yard-lands but others had their cot and toft neighboring to the croft. These additions to the original community would come from internal changes, the transformation of slaves into gebûras, the increase of families and the growth of sons; and from without by the entrance of those seeking land and protection and by the intermarriage with gebûras of other manors. For these an outfit would be supplied in part from the vacated lands of those who had died or had been for some offence reduced to slavery; in part by bringing into cultivation more of the wild-land and the waste, which in some districts might have been preceded by a wild field-grass husbandry, especially on the poorer lands. Such fields would be divided apparently into yard-lands in part, while in other cases portions of such lands seem to have been given as crofts to cotters. In either case the division would be made either arbitrarily at the will of the lord or probably in many instances by lot.[2] There is

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[1] Earle, *L. C.*, xciii, 385, 388, 394. Stevenson in *Chron. Abingd.* (see Glossary) thinks 'cot-stowe' to be equivalent to 'cot-setl.' Therefore the holder of a cot-stowe would be practically a cotsetla. Earle however thinks the word to mean simply a hamlet.

[2] There is a section in one of the charters which would seem to indicate some such method. On Fearnes felda gebyraþ twega manna hlot landes into Sudwellan; on Healum are seoxta acer and dreon manna Hlot on Norman tune a se dridda acer on Fiscestune da twegen dales and feower manna hlot ealles dans landes. Birch, III, 230-231, A. D. 958. Is there a distinction here implied between 'dales' and 'hlots'? On this point there is an important passage in a homily of Aelfric in his *Lives of the Saints*, which confirms our supposition that redeemed land, pasture land, or in fact any land, might have been divided by lot. It shows that 'dale' was simply any piece of divided land and that 'hlot' was a piece acquired by casting lots. The passage is as follows:

mention of the divided and undivided land in the laws and boundaries. Of the first we have the 'gedâl land' which is clearly the arable divided into yard-lands or common acres, inasmuch as in the law of Ine it stands in contrast to the 'gærstûn' and is in one reading called 'gafol-land.' Of the second we have as an example the 'untodælede bryne,'[1] which may refer either to individual, indivisible land or to waste prepared ready for division, awaiting distribution among gebûras and cotsetlas. The *Rectitudines* gives us no clear indication as to whether the cotsetla held his land in one piece at this time, or whether it was distributed like that of the others in the open field. Probably both systems were employed as was the case on later manors, for in the Hundred Rolls the *cottarius* held a messuage without a croft, with a croft, with two crofts, with a virgate, with croft and virgate.[2] The

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Hleotan man mot mid geleafan swa þeah on woruld-ðingum butan wicce-cræfte. þæt him deme seota. gif hi hwæt dælan willað. þis nis nan wiglung. ac bið wissung foroft.

This Skeat translates, "Nevertheless a man may cast lots, in faith, in worldly things, without witchcraft, that he may allot himself pastures, if men wish to divide anything [*i. e.* any land]; this is no sorcery, but is very often a direction." (Early Engl. Text Soc., 77,) 370-371. That this custom of casting lots was commonly used as a part of British religious rites is well attested. Elton, *Origins*, 261. Elton knows of hardly any evidence "to show that the arable in England was ever divided in this way," (389), and draws on comparative custom and survival as support for his conclusion. The above from Aelfric is certainly clear documentary evidence.

[1] Birch, *C. S.*, I, 502.

[2] *Rot. Hund.*, II, 647-649. Compare Nasse, 41.

We do not find in the *Burton Chartulary* any cotsetla who held in the open field, his holding was cottage and croft. Cotsetus habet i domum super in landam ad opus. Cotsetus habet i domum, i croftum et i acram prati. p. 18. et viii cotsetes quisque de quinque acras et operantur semel in ebdomada. *Liber Niger*, 157.

Duodecem cotemanni tenent in eadem villa toftos et croftos et xiij acras in campis. These holdings were both crofts and acre strips. *Boldon Buke*, 13.

Isti subscripti dicuntur cottarii et tenent dimidiam virgatam. . . . .

distinguishing features of this holding seem to have been the use of the cottage, as the term cotsetla itself implies, either located within the village or in the essarts; the nature of the services and the absence of any gafol payments.[1]

The allowance of land which the cotsetla received from the lord was five acres at the least; it might be more but it could not be less. This was however not a fixed amount, but varied in the different localities, probably according to such terms as could be or had been made with the owner of the land. This land was sometimes designated cotland,[2] sometimes *terra cotsetorum*,[3] *terra cottagiorum*[4] and again there is found 'cotsetland,'[5] and 'cotmannes-meadow,'[6] while the toft or messuage with the cottage was called, cot, *cottagium*, cot-setl, cot-heal, cot-stowe, etc. This holding does not appear to have carried with it so extensive rights as was the case with the land of the gebûr. The Latin text states that the cotsetla was to have half an acre for his provisioning and a sheaf of corn for his mowing, a customary gift which the gerêfa or the lord was to give to him.[7] For this allotment he paid no gafol, an ex-

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Quilibet de praenominatis dat per annum iiijd, redditus pro una acra quam habet in Greneholte per extentam in communi inter alios. *Cust. Battle*, 62. Here we see a holding of yard-land and a share in the common meadow. This may be compared with the entry in *Boldon Buke*, 18. In Parva Halgtona sunt v homines, que tenent viij acras terrae *similiter* et unusquisque toftum et croftum.

[1] In addition it is noteworthy that no mention is made of an outfit. So far as we know the cotsetla had no oxen and consequently could take no part in the cooperative ploughing. This fact taken in connection with the absence of gafol payments strengthens the conclusion that the cotsetlas formed no part of the original community.

[2] *Rot. Hund.*, II, 630, 744, 870, 871. In *Cart. Glouces.* the cottagers are themselves called *cotlandarii*. III, 119.

[3] *Burton Chart.*, 26, 27, *passim*. [4] Hatfield Survey, *Bolden Buke*, xlviii.

[5] *Chron. Abingd.*, II, 302. [6] *Inq. S. Pauli*, 103.

[7] Et habeat garbam suam (et de alia annona dimidiam acram, adds the *Cotton. Tit. A.*, 27) quam praepositus vel minister domini dabit ei. Schmid, *Gesetze*, 373.

Garba was a sheaf or bundle, at first of corn, afterwards used to include vetches, peas, hemp. It was given to the *operarii* on St. Paul manors.

emption which at once separates him sharply from the gebûras and points to a different origin. 'He made return to his lord in services rendered, which were not light. His work for the estate fell upon every Monday throughout the year and from this the cotsetla received the name of mondayman at a later period.[1] In August, at harvest time, he labored three days each week, and the Latin text adds that on some manors daily labor was required at this time, and that the mowing of an acre of grain was accounted as a day's work.[2] In the personal relation to the lord the cotsetla occupied a peculiar and suggestive position. Whenever commanded he was to acquit his lord's inland of certain important services. That is if the lord so wished, the cotsetla took upon himself certain duties which belonged to the lord as holder of bôcland; he acquitted his lord of the duty of ward at the sea-coast and of service at the king's deer-hedge, and of whatever else fell to his lot.[3] These were incidental services and might be light or heavy according to the character and frequency of the king's bann. But the cotsetla was to be always ready, whenever the lord should command. To the Church he paid the customary dues, the hearth penny or Peter's Pence, as did the gebûr on Holy Thursday, that is Ascension Day, and the kirkshot at Martinmas. In connection with the mention of the hearth

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Domes. St. Paul, 19. Fleta says, 'garba vero acer' sit ex trigenti peciis.' II, 12, § 5.

In the *Chron. Abingd.* it is defined as follows: His diebus raro a quoquam decima messium ut lege praecipitur in abbatia ipsa dabatur, sed aut de hidagio xl manipuli, quos vulgo Garbas vocant aut decima suae culturae acra porregebantur. II, 25-26. Compare Rogers, *Agr. and Prices*, II, 711.

[1] *Lundinarii*, Mondaymen. Isti debent singulis diebus lunae unam operationem. *Inquis. S. Paul*, 27. They are frequently mentioned in *Cart. Glouces.*, III, 118, 125, 145, and even their lands are called *lundinaria*, Monday lands, *Ib.*, 207.

[2] Apud quosdam operatur per totum Augustum omni die, et unam acram avenae metit pro diurnale opere.

[3] Werige his hlâfordes inland. The Latin is: et adquietet inland domini sui.

penny we are given the valuable information that it was demanded of every freeman, thus conclusively confirming the supposition that both the gebûras and cotsetlas were freemen in the Anglo Saxon sense of the word.[1]

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[1] Kote-setlan riht, be þâm þe on lande stent. On sumon he sceal ælce Môn-dæge ofer geâres fyrst his lâforde wyrcan, oðð III dagas ælcre wucan on hærfest; ne þearf he land-gafol syllan. Him gebyriað (v) æceras tô habanne; mâre gyf hit on lande þeâw sŷ, and tô lytel hit bîð, beô hit â læsse, forþân his weorc sceal beôn oft-rêde; sylle his heorð-pænig on hâlgan þunres-dæg, eal swâ ælcan frigean men gebyreð, and werige his hlâfordes inland, gif him man beôde, æt sæ-wearde and æt cyniges deôrhege, and æt swilcan þingan swilc his mæð sŷ, and sylle his cyric-sceat tô Martinus mæssan. *R. S. P.*, 3.

CHAPTER III.

The Landless: Followers and Slaves.

The gebûras and cotsetlas were landholders and householders and probably in the greater number of instances ceorls with families to maintain and children to support. But there were others on the estate who, although they might be married and might at the gift of the lord cultivate a little land, were not properly speaking landholders and in no sense householders.

Mere ownership of land had a small place among those who formed the original settlers. Apart from its importance as furnishing sustenance and a home to the family and the tribe, it carried with itself a value secondary to the personal tie, which bound the tribe together. Freedom was determined by some other standard than that of land-titles. It was not the want of a piece of land, but it was the cutting off of the individual from the family, from the clan community which originally constituted outlawry; for this removed the individual from the protection which association with the 'sib' or 'mægth' gave. With the transition however from the personal organization to the territorial and with the growth of a political system an increased importance was given to the land upon which the tribe settled. Land now became an organic part of the new political and social organization, and the possession of land, or the use of it, became increasingly more necessary to the attainment of position as a member of the state. Landed proprietorship gradually supplanted preeminence of position based solely on military and personal

freedom and land became the basis of a freeman's franchise, the badge of civic membership. Of necessity therefore there arose a division into those who possessed land and those who did not. Such division was probably found in nearly every grade of the Anglo-Saxon people. There were landed gesithas and the landless; there were the thegns who were lords and proprietors and there were those who because of their close contact with the king and the royal service became land owners but slowly; among the ceorls we find the division expressed in the term 'heorðfæst' and 'folgere,' the former possessing definitely enrolled rights because of his house and land, the latter followers of those who because of their possession of land were superior.[1] Yet even here we see the influence of that fact, which we have insisted upon so often already, that the value of land was closely connected with the house which stood upon it, and the family which used it for its own support. The landholder was the 'heorðfæst,' the hearth-established one, and to this class belonged the thegn, gebûr and cotsetla; the other class was composed of those who were not hearth-fast, who possessed only a few of the advantages of the domiciled freemen, who, owing to poverty, the combined result of misfortune or inability to better their position could not become free-holders on a great estate and were therefore obliged either to take service or flee to the forest as outlaws, or else to commit some crime and become *de jure* slaves. From king Aelfred's time it was assumed that no man could exist without a lord. The first mention of this relation is found in Aelfred's laws, where permission is given to seek a lord in another manor with the ealdorman's knowledge.[2]

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[1] Palgrave, *Engl. Comm.*, I, 19–20.

[2] *Aelfr.*, 37. Gif mon wille of bold-getale in ôðer bold-getæl hlâford sêcan, dô þæt mid þæs ealdormonne's gewitnesse, þe he êr in his scire folgode. Does 'bold-getale' mean manor-registry? 'on getæle' is glossed *in catalogo*. W.-W. 418, 36: It may be that Schmid is right in his note, in making it a region containing a number of houses, *Gesetze*, p. 90, note 37. Toller in his edition of Bosworth, accepts Thorpe's interpretation, 'manor roll.'

This seems to refer to all classes of the tenantry, and the fine which was visited upon the delinquent corresponds to a provision in the law of Ine,[1] by which one was forbidden to leave the lord without permission, though in the later instance the 'wîte' was twice as great as in the earlier. But more particularly was it enjoined in the laws of Eadgar that every man should have a surety (borh);[2] this is repeated in the laws of Aethelred, that every freeman shall have a true surety.[3] Most interesting of all as explaining the condition and position of the landless men are two laws of an earlier date of Aethelstan, who, the contemporary of Henry the Fowler, Hugh Capet and Howel Dha, did more, by the enactment of new measures, to strengthen and unite the Anglo-Saxon states than had any king who had gone before. He made it the law of the land (folcriht) that all landless and lordless persons, all vagrants, should be placed under a lord, who should present them to justice.[4] The law reads as follows: "And we have ordered respecting those lordless men, respecting such an one as no law can reach, that the kindred be commanded to appoint a home for him according to 'folcriht,' and to find a lord for him in the folk-môt; and if they will not or cannot produce him at the day appointed then let him be henceforth a 'flyma' (a fugitive, *forsbannitus*, *profugus*) and let whoever can come at him slay him as a thief; and whoever after that shall harbor him, let him pay for him according to his 'wer,' or by it clear himself."[5] Already had it been declared that harboring a fugitive was contrary to law.[6] Aethelstan strengthened the old law by additional enactments[7] and 'flymenafyrmth' became a part of the jurisdictional right of the lord of the manor, whereby he received the whole or part

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[1] *Ine*, 39. [2] *Eadgar*, III, 6. [3] *Aethelred*, I, 1.
[4] Lappenberg, *Engl. under A. S. Kings*, II, 143–144.
[5] *Aethelst.*, II, § 2. [6] *Ine*, 30.
[7] *Aethelst.*, II, 20, § 8, frequent later additions were made.

of the fine exacted from such of his tenantry as broke the law.[1] The second law is of added interest because it fits the wording of the document more closely. "And we have ordained if any landless men shall become a follower in another 'scîre' (gif hwylc landleâs man folgode in ôðere scire) and again seek his kindred, that they shall harbor him only on the consideration that if he do evil there they will present him to 'folcriht' or do 'bôt' for him."[2] This enactment makes clear that the 'follower' was landless and we know that he was free as any other ceorl. Were additional testimony needed on this latter point we would find it in Cnut's laws, where it is decreed that "each freeman be brought into a hundred or a tithing, who wishes to be worthy of his defence or of his 'wer'; in case any one slay him after his twelfth winter such an one shall not be afterwards worthy of his free-right (freô-riht), whether he be a heorðfæst or folgere."[3] This would clearly indicate that the follower was a freeman, differing in no way from the gebûr and cotsetla, in respect of status, and only inferior in that the householder generally in mediaeval times, and even in times not so remote, was accounted in the local village life as a man of more importance. Although we have no evidence that the 'follower' was a man with a family, and know with reasonable certainty that he had no house of his own, yet he could in part remedy this defect in his social position, for he did have a small holding of land. As having no house his place was probably at the mansion of the lord, or, as is not impossible, in the house of one of the tenantry. Regarding the duties of the follower we are almost wholly in the dark and can only conjecture what the general nature of them was. In the supplement to Aelfric's vocabulary 'folgere' is glossed *assecla*,[4] which in Low Latin signifies an attendant, without the accessory idea of contempt, which is

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[1] Earle, *L. C.*, 233. . . . flymena fyrmðe ofer his agene menn binnan byrig . . . . From a writ of Cnut of the year 1020.

[2] *Aethelst.*, II, 8. [3] *Cnut*, II, 20. [4] W.-W., 189, 30.

conveyed in the classical use.[1] This seems to carry with it the idea of a retainer, one who is in the train or company of another, and such a meaning certainly would be inferred from the use of the word 'folgian,' and the reference to the landless man as "one who follows." There would seem to be further support for this in the *Rectitudines*, where his shoeing and gloving—which may be a sort of formula for clothing in general—is a perquisite of his position. A suitable dress would seem to be necessary for the 'follower' and this perquisite would be interesting evidence were it not for the fact that the ox-herd also was allowed a similar one.[2] When not in the lord's retinue the 'follower' probably performed certain menial and predial services about the house or upon the inland. In return the lord gave him shelter and food, was his surety at court and represented him at the folk-môt, while if the lord did him injury he could justify himself in the folk-môt, a clear evidence of his legal status, and if he could there prove himself to have been guiltless, he could take advantage of his freedom and with proper witness seek another lord in another 'scîre' at his own free will.[3] In addition the 'follower' could become a landholder, though we have no evidence that he could be 'heorðfæst.' During the first twelve months there was due to him, if he earned it, two acres of land, possibly inland, though by no means certainly, one acre sown the other unsown; for the latter he was to find his own seed and sow it himself. He could also better his position if he worked sufficiently well, and the conclusion seems clear from the last line of the text, "if he earn more let it be

[1] Krebs, *Antibarbarus der Latinischen Sprache*, 6th ed., I, 186.

[2] Dr. Sullivan in his introduction to Dr. O'Curry's lectures, says: "The *Daer Céiles*, who received benefices of land, represented among the Saxons the class of ceorls or villeins called *Heorthfastmen* or householders. The *Céiles* who did not receive benefices of land corresponded to the Anglo-Saxon *Folghers* and formed part of the military retinue of the chief." I, cxiii.

[3] *Aethelstan*, V, 1, §1.

to his own advantage," that he could accumulate money, though to what end is not stated. His position does not appear to have been one of great dependence, though from our entire lack of knowledge as to his duties we are wholly unable to determine how arduous such duties might have been.[1]

The 'follower' was folc-free; he had the right to bear arms, to be represented at the court, at the gemôt and above all he had his 'wer,' which was the sign of his legal position. He was landless, it is true; but this the other mark of freedom could be in part made up to him; he was homeless, but the lord's house was his shelter and his support was assured; he might have been kinless, though we know that this was not always the case. That however which was to him from a legal point of view, first and chief, was the fact that he had a status, was a 'person' not a 'thing.' It may well be doubted whether practically this made very serious difference in the daily life of those who were *personae*. It may have had its influence in matters of punishment, but, generally speaking, it is probable that its influence in ameliorating the life of the 'follower' was slight. But it formed a definite line of demarcation from that other body of the landless, the lowest class of all upon the estate, the slaves, who were not persons but things, not individuals but chattels.

Regarding the origin of slavery an extensive disquisition might be written which would have only a partial application to the Anglo-Saxons. This is the main difficulty with Kemble's chapter on the subject, in writing which he has drawn too largely upon his knowledge of the history of slavery upon the continent among the German tribes. This renders his account less useful for us than that of Maurer.[2] Chief of all

[1] Folgere gebyreð, þæt he on twelf môndum II æceras geearnige, ôðerne gesâwne and ôðerne unsâwne; sædige sylf þæne; and his mete and scôung and glôfung him gebyreð; gyf he mâre geearnian mæig, him bîð sylfum fremu. *R. S. P.*, 10.

[2] On Anglo-Saxon slavery see Kemble, *Saxons*, I, 193-208. Maurer, *Kr. Ueb.*, I, 408 ff. *Heywood on Ranks*, Ch. VI; the most valuable chapter of this interesting work.

causes in early times and among all peoples was capture in war. The peculiar nature of the English conquests, the frequent wars between the different kingdoms and the private expeditions for revenge or plunder would render this a fruitful means whereby the number of slaves would increase on English soil. In this way the Romanized Briton, the Welshman, the Angle and Saxon and the Dane would all go to swell the body of those without legal status.[1] In those troubled times any were liable to a reduction to slavery; the thegn might become a thrall, the lord might become the slave of one who had been in subjection under him, and Wulfstan, in that strong sermon of his to the English, shows that all this actually took place.[2] It was at the time of the Danish invasion and the sermon seems to point clearly to a region infested by Danes, a region in which was the seat of Wulfstan's labors, for he was Archbishop of York from 1002 to 1023. Wulfstan's graphic picture does not seem to be corroborated by the evidence of the Domesday Survey. Mr. Seebohm's map shows that in the west and southwest there appears the greatest percentage in that record; that in Gloucestershire nearly one fourth of the population, twenty-four per cent., were in a state of slavery; that in Cornwall, Devon, and Stafford the proportion was only one to every five; in central England about one to

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[1] There is but little indication of the nationality of the Anglo-Saxon slaves. Of the Welsh origin of large numbers there is abundant historical evidence, and this is corroborated by the presence of Celtic names among the manumitted; as for instance Conmonoc, Iarnwallon, Wenwaerthton, Maeiloc. Kemble, *Saxons*, I, 504. There is also Aelfric the Scot, and Aegelric the Scot, and 'Aelfwig se rêd' and 'Aelfgarum nigrum.' Kemble, *Saxons*, I, 507; *C. D.*, 795. Compare *Heywood on Ranks*, 365-367.

[2] ðeah þræla hwylc hlaforde æthleape and of cristendome to wicinge weorðe, and hit æfter þam eft geweorðe, þæt wæpnwrixl weorðe, gemæne þegene and þræle, gyf þræl þæne þegen fullice afylle, licge ægylde ealre his mægðe, and gyf se þegen þæne þræl, þe he ær ahte, fullice afylle, gylde þegengylde. *Sermones* (Napier ed.), 162.

and oft þræl þæne þegen, þe ær wæs his hlaford, cnyt swyðe fæste and wyrcð him to þræle þurh godes yrre. *Ib.*, 163.

every seven; in the east, Essex, Surrey, Cambridge and Herts one to every nine; in East Anglia and Wessex one to every twenty-five, while in the northerly districts in Nottinghamshire one to two hundred is given and in York, Rutland, Huntingdon and Lincoln no slaves at all are recorded.[1] From this it is evident that the Danish invasion was less serious from this point of view than had been the original conquest. Domesday records the social condition 500 years after the settlement and many influences, with Christianity as the primary, were at work to alter the results of that movement. The main inference to be drawn is that the continued warfare along the Welsh marches replenished the supply in the west, while in the east the slave element was rapidly decreasing and in the north, notwithstanding the Danish invasion, there was rather a commingling of peoples than a subjection of the one by the other.

A second cause was the surrender into slavery of the individual's own body either by himself or a relative. This could be voluntary, the free act of the individual or his relatives, or it could be forced, resulting from the storm and stress of evil days. This surrender was one of the most unfortunate phases of the Anglo-Saxon servitude and indicates to us the growing increase of the traffic in slaves; and the personal subjection was largely the outcome of that which was common to all peoples, the demand for slaves. Even as early as the time of Strabo, in the half century following Cæsar's conquest, the export of slaves began in Britain[2] and before the Norman Conquest the sale of slaves had become a considerable branch of commerce. The insular position of England, her numerous ports, of which Bristol was one of the chief, gave rise during the Saxon occupation to a traffic in the slaves of all nations, and we know that slaves were publicly bought and sold

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[1] Seebohm, *V. C.*, Plate to face 86. Lappenberg, II, 392.

[2] *ταῦτα δὴ κομίζεται ἐξ αὐτῆς καὶ δέρματα καὶ ἀνδράποδα καὶ κύνες εὐφυεῖς πρὸς τὰς κυνηγεσίας.* *Strabo*, 4, 199–200.

throughout England and from there transported to Ireland or the continent.[1] It was the prevalence of this practice and the wretched misery which it brought upon so many human beings, as well as the fact that it was against the precepts if not the laws of the church, that led Wulfstan, the Wilberforce of his time, to bring about the cessation of the slave trade at Bristol. From this place, lines of women and children, gathered together from all England were carried into Ireland and sold.[2] Elsewhere Wulfstan tells us that fathers sold their children, children their mothers and brothers into the power of foreigners.[3] If sufficient evidence were not found in the traditionary presence of Anglo-Saxon slaves in the public market-place in Rome which excited the righteous indignation of Gregory the deacon,[4] the laws and poenitentials would complete the proof. According to the latter a man could sell himself before his fourteenth year,[5] and the father, if forced by necessity could, with the child's permission, sell his son under seven years of age,[6] though according to Ecgbert, a Christian who had so done was forbidden consort with Christian men

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[1] In *Bede* we are told that Imma was sold in London to a Frisian, IV, Ch. 22, and Domesday shows a regular traffic between the cities, 26. In such case a toll of a few pence was always paid to the port-gerêfa. *Heywood on Ranks*, 384–385.

[2] William of Malesbury praises Wulfstan for his part in this work. The following is his picture of misery:

Homines enim ex omni Anglia coemptos majoris spe questus in Hiberniam distrahebant; ancillasque prius ludibris lecti habitas jamque pregnantes venum proponebant. Videres et gemeres concatenatos funibus miserorum ordines et utriusqué sexus adolescentes; qui liberali forma, aetate integra barbaris miserationi essent cotidie prostitui, cotidie venditari . . . . Hunc tam inveteratum morem et a proavis in nepotes, transfusum Wulfstanes, ut dixi, paulatim delevit, *Vita S. Wulfstani.* Wharton, *Ang. Sacra*, II, 258. *Cf.* Tourmagne (Villard) *Hist. d'ésclavage*, 225.

[3] Eac we witan ful georne, hwær seo yrmð gewearð þæt fæder gesealde bearn wið weorðe and bearn his modor and broðer oþerne fremdum to gewealde. *Sermones*, 161.

[4] Bede, *Hist. Eccl.*, II, 1. [5] *Poenit. Theod.*, 19, § 29. [6] *Ib.*, 19, § 28.

until he had redeemed the one sold or another from slavery.[1] Similar laws were passed by the Witan in the time of Aethelred,[2] and from these we learn how deep-seated was the existing custom. The secular law forbade that either a slave or a guilty freeman, particularly if he were a Christian should be sold over the sea or into heathen lands.[3] These special exemptions may have been due to the fact that the Jews were the principal dealers, selling these slaves chiefly among the Saracens of Spain and Africa,[4] or it may have been due to the custom of looking upon such sale over sea or among heathen in the light of a special punishment.[5]

Besides this sale into slavery for purposes of traffic, which as a regular commerce was not prohibited until after the Norman conquest, many seem to have submitted themselves to the mastery of another through the need of food, which a year of famine might bring. A charter in the Codex Diplomaticus tells us of those men who bowed their heads for their meat in the evil days.[6] Kemble thinks that such cases might have been frequent[7] and Simeon of Durham, writing of the year 1069 when there was a dreadful famine in England, which raged particularly in the north, says that many sold themselves into slavery, that they might receive the needed support.[8] To all such cases the laws of Theodoric had equal

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[1] *Poenit. Ecgbert*, IV, § 26. *Cf. Poenit. Theod.*, 42, § 4.

[2] *Aethelred*, V, § 2; IV, § 9. *Cnut, Sec.* II, 3.

[3] *Ine*, 11.

[4] *Heywood on Ranks*, 388, quoting *Muratori*, 2, 883.

[5] Jastrow, *Zur strafrechtlichen Stellung des Sklaven* in "Gierke, *Untersuchungen*," II, 60–61.

[6] Geatfleda geaf freols for Godes lufa and for heora sawla þearfe ðæt is Ecceard smiþ and Aelstan and his wife and eall heora ofspringe boren and unboren and Arcil and Cole and Ecferð Eadhunes dohtor and ealle ða men ða heonon heora heafod for hyra mete on ðam yflum dagum. *C. D.*, 925.

[7] Kemble, *Saxons*, I, 196.

[8] *Heywood on Ranks*, 359–360, who says that "in cases of great poverty and distress it was not uncommon for freemen to sell themselves into slavery." In Kemble, *Saxons*, I, 502, *C. D.*, IV, 314, is mentioned an instance where one man wished to enslave another as 'nydþeowetlinge.'

reference. Even so late as the so-called laws of Henry I, such an act was recognized and a special procedure provided.[1] Frequently it might happen that violence or fraud would force a freeman into slavery,[2] an enforcement, which, while not legally recognized, would become practically a fact, and of legal importance in relation to the posterity of the unfortunate freeman, for of course all children of slaves remained slaves. On this point however, if we can trust the laws of Henry I, the law was as follows: The child of a legitimate marriage between a slave father and a free mother or between a free father and slave mother followed the condition of the father. If the child was the fruit of an illegitimate union it followed the condition of the mother.[3]

In addition to all those thus born into slavery or reduced to that condition in the ways above noted, there was another class made up of such as were reduced to slavery unwillingly as a penalty for debt or crime; these were known as 'wite-theowas' or 'wite-fæstanmen' and of these we will speak again.

The legal condition of the slave was a particularly hard one; as a thing, not a person, he was classed with his lord's goods and cattle and seems to have been rated according to a similar schedule, to be disposed of at the lord's pleasure like his oxen or horses,[4] and like them too, having in large part a value for the benefit of the lord. They could be sold, transferred or devised, a disposition of frequent occurence.[5] They

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[1] *Leges Hen.* 78, § 2.

[2] *Poenit. Theod.*, 42, §§ 4, 5. Maurer, *Kr. Ueb.*, I, 409–410.

[3] *Leges Hen.*, 77, §§ 1, 2. See also Thorpe, *Anc. Laws and Inst.*, II, 626–627; Scrutton, *Influence of the Roman Law*, 83.

[4] *Aelf. and Guð. friðe*, 4. Earle, *L. C.*, 275. The following seems to be a classification of this kind: Her swutelað on ðisse Cristes bec ðæt Godwig se bucca hæfð geboht Leofgifa ða dagean at Norðstoce. *C. D.*, 936. *Cf.*, 937. Godwy the *buck* and Leofgifa the *doe!* *Cf.* Schmid, *Anh.* I, O. D., 7.

[5] Take the following examples of such disposition from the histories of Ramsey and Ely:

had no legal rights before the law and could bear no arms save the cudgel, the *billum vel strublum* as the laws of Henry I call it.[1] Yet the position of the slave appears to have improved in the history of Anglo-Saxon law. In the earliest code he had no definite value as the ox nor wergeld as the freeman. He had a 'worth,'[2] which, in the laws of Ine became a fixed amount, a value definitely named, a quasi-wergeld as Jastrow calls it.[3] The close relation of this 'worth' to the wergeld is evident from the fact that the former, that is the slave's 'worth,' had its 'healsfang' as had the freeman's wergeld.[4] In West Saxon law the 'worth' had become an actual though limited wergeld and the personality of the slave was becoming fully recognized.[5] Under the laws of the united kingdom this process continued, and the relative positions of the slave and the lower class of freemen showed gradually

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In primis Aethelstanus Manvessone concessit sancto Benedicto Ramesiae terram de Chateris, pro animae suae salute, cum dominio & hominibus, cum gurgitibus & piscariis, sicut ipse & pater suus eam unquam melius & plenius habuerunt, & terram de Walde Sanctae Aetheldrithae de Ely & per omnes terras suas, de *xxx hominibus numeratis xiii manumisit, quemadmodum eum fors docuit ut in quadrivo positi pergerent quocunque voluissent. Hist. Ram.*, Gale, I, 407.

Quo facto Brithnoctius Abbas dedit insuper Wluotho vii libras pro omnibus quae habebantur in Bluntesham, videlicet *pro hominibus* & pro pecunia & pro frumento. *Hist. El.*, Gale, I, 478.

Dederunt etiam pecuniam pro pecunia; superabundabant tamen apud Holande c oves & lv porci & *duo homines* & v boves subjugales. *Hist. El.*, Gale, I, 481. *Cf., C. D.*, 716.

[1] *Leges Hen.*, 78, § 2. [2] *Aethelbr.*, 86, 87. [3] Jastrow, 47.

[4] *Wihtræd*, 14. Jastrow considers the 'healsfang' as equivalent to hide-money mentioned. *Wiht.*, 10, 13, 15; Jastrow, *op. cit.*, 38.

[5] *Ine*, 11. The wergeld was divided into 'wer' and 'healsfang,' the latter usually one-tenth, paid to the nearest relatives, though these as well as the others participated in the 'wer.' See Young, *Essays in A. S. Law*, 128, 144; Brunner, *Sibbe und Wergeld, Zeitschrift der Savigny-Stiftung, Germ.* III, 1882, 14-18. On the meaning of 'healsfang' Brunner has developed a new theory, in opposition to Schmid, Young and von Amira; He thinks the word to have the signification of *embrace* (umarmung), referring to the kiss of peace, which determined the payment of 'healsfang.'

fewer and fewer distinctions,[1] until from one point of view there can be little doubt that actual hardship was equally to be found among the freemen as among the slaves, and the condition of the one had become not greatly different from the condition of the other, although the slave may have sighed for freedom as did Archbishop Aelfric's plough-boy.[2]

Hardly any part of the work of the Church was of greater importance than that which related to the moral and social elevation of the slave class. Its influence did much to mitigate their hard lot, both directly and indirectly. It endeavored to instil moral principles, particularly in the relation between master and slave, and to preserve the sanctity of marriage, exacting severe penalties for all breaches in its laws. It strove to break up illicit intercourse and concubinage; to check entirely the killing of slaves and their excessive flogging at the hands of their mistresses. The influence of Christianity showed itself in placing freeman and slave on a common basis as Christians and forbidding many things to be done within this brotherhood, which without the bond of higher union would have continued to exist in as great a measure as before. Probably this influence was not absolutely great, but only relatively so. The Saxons were only a step removed from all the concomitants of heathenism and all the practices incident to a barbarian people. It is not easy to read ourselves into the actual condition of Anglo-Saxon society, particularly among the lower classes. Studying the laws will not do it, nor yet will the examination of the poets, Bede, or the Chronicle. From any of these we might be justified in supposing that Anglo-Saxon Britain was a 'paradise of yeoman,' to use Professor Pollock's phrase. Perhaps the best conception is to be gained from an analysis of the list of commissions chargeable by the Church as offenses, or from the recipes contained in the books of the Saxon leech. From these

[1] Jastrow, 43, 47.

[2] Ge leof micel gedeorf hit ys forþam ic neom freoh. W.-W., *Vocab.*, 91.

we can see how prominent was the animal nature of these old Saxons. The Poenitentials of Theodoric and Ecgbert show us one side of Anglo-Saxon society. In these we exchange the color and picturesqueness of their great deeds for the astonishing homeliness and at times beastliness of their daily life. Roseate views of Anglo-Saxon freedom hardly accord with the evidence which the lists of penances offer. In addition to the degrading practices, the ignorant superstitions of the slave classes in all countries found themselves reproduced in full measure among the Anglo-Saxon theôwas. But they were not confined to the slaves; the lower classes of freemen as well were basely ignorant and superstitious and the injunctions of the Church were directed against all.[1] Specifically some of their chief practices were as follows: the worshiping of devils, that is heathen gods, idols, sun, moon, stones,[2] men, trees,[3] running water and wells;[4] the belief in witchcraft, enchantments, auguries, divination; the telling of fortunes and the interpretation of dreams, the mixing of love potions and torturing with pins.[5] They used charms to make the fields fertile, to find lost cattle or anything

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[1] *Wihtr.*, 12, 13.

[2] Compare Gomme, *V. C.*, 137, for mention of the Brownie's stone.

[3] See Frazer, *Golden Bough*, II, 290-292.

[4] On worshipping wells compare Mitchell, *The Past in the Present*, 149-151; 273-274. Brand, *Popular Antiquities*, II, 366-387. Elton, *Origins*, 274-275.

[5] *Poenit. Theod.*, XXVII, 1-26. Note further Thorpe, *Anc. Laws and Inst.*, Index, s. v. 'Superstitions.' Also *Leechdoms, Wortcunning and Starcraft.* Rev. O. Cockayne, in Rolls series, 1864. Three vols., Note spec. preface to I, also chapters on Charms, I, 384-405; III, 287-295; chapters on Dreams, III, 150 ff.; also see Kemble, *Saxons*, I, App., F. 523-535; Brand, *Popular Antiq.*, III, *passim.*

Aelfric in his homily *De Auguriis* gives a valuable list of the old customs. He warns his hearers against witchcraft, enchanters, auguries from birds, from sneezings, from horses or dogs; against lucky and unlucky days, against sorceries in marriage, travelling, brewing, and praying; against consulting witches, bringing offerings to stones, trees or wells; against standing in the cross-roads, drawing children through the earth; against love potions or charms or any such thing. Aelfric, *Lives of the Saints* (Early Engl. Text Soc. 77), 368-376.

stolen; amulets to guard against poison, disease and battle. Then too every day had its good or evil reputation. Each had its particular use; if unfavorable for sowing seed it might be favorable for taming cattle. On one day they were to buy, on another to sell, on a third to hunt, on a fourth to do nothing. If a child were born on such a day it would live, if on another its life would be sickly, if on a third it would perish early.[1] Much of this was of course not necessarily degrading, but all shows credulity. The Church worked ingeniously and indefatigably with these superstitions, turning all that could be used to good account, sprinkling old customs with holy water; drawing lessons from heathenish practices and turning charms, fairy stones and potions to the soul's good.[2] Its influence found expression in the law and its leavening power showed itself nowhere more beneficial to the slave than in the stimulus which it gave to manumission. Occasional recommendations through the laws were supplemented by constant influence brought to bear upon private persons, to whom the clerics themselves set a good example.[3]

The slave could be redeemed either by purchase, or by the gift of freedom from his master or mistress; while at times the law declared him free through the commission of some illegal act on the part of the lord to the injury of the slave. Freedom was generally given at the church door or altar, over the relics of the saints, or at the cross roads,[4] usually in the presence of witnesses, and was either the free act of the master, whether lord or cleric, or was brought about through purchase by some relative of the slave, father, brother or son, or by the

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[1] Turner, *Hist. Ang. Saxons*, Bk. VII, Ch. 13.

[2] See Gregory's letter to Abbot Melitus, *Bede*, 1, 30. Green, *Conq. of Engl.*, 11, and for the scripture texts, psalms, sprinklings of consecrated water added to the recipes, see Cockayne's *Leechdoms, passim.* Elton, *Origins*, 250, 261.

[3] Lingard, *Hist. Angl. Church*, II, 68.

[4] See p. 186, note 5. xiii manumisit, quemadmodum eum fors docuit ut in quadrivo positi pergerent quocunque voluissent.

slave himself in a great many instances.[1] Not only was the liberation of one person effected at a time, but, just as a whole family could be reduced to slavery at the same time,[2] so men and their wives or their entire families, including all offspring, born or unborn, could be freed together.[3] The price paid varied greatly, probably according to the position and value of the slave; a single person brought from twenty-four pence to sixty, and was sometimes rated as high as ten shillings; a family brought from ten shillings to eighty. A part of the price was not infrequently paid in animals, so many head of sheep or oxen. That this sale was considered in the light of an ordinary business transaction, that is, an ordinary sale between cities of a *res*, slave, horse or other animal, is evident from the fact that whenever such manumitted slave lived in a burg, a tax or toll of a few pence was paid to the port-gerêfa, as was done in the case of a customary sale of a slave or other chattel, which lived in or belonged to that city.[4] The manumission was carefully recorded and in a majority of cases some provision was made for the person manumitted.[5] It is doubtful whether manumissions were frequent before the introduction of Christianity, for the greatest number took place in the neighborhood of the monasteries and convents, where the pressure of the Church could be brought to bear more directly on the people. By such manumission a great change

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[1] Thorpe, *Dipl. Sax.*, parts II, IV; Kemble, *Saxons*, I; App. C., 496–510; where examples from the charters are given. See also 216–225. It was the legal doctrine in Glanville's time that a slave could not purchase his freedom, as he could hold no property. Ashley, *Economic Hist.*, I, 38; Vinogradoff, *Villainage*, 86.

[2] *Ine*, 7, § 1.

[3] Wuenumon and hire teâm Morniȝ hire swuster and hire teâm and Wurgustel and his teâm warun gefreôd hêr on tûne for Eâdryde cynigc. Kemble, *C. D.*, IV, p. 312.

[4] See above, page 184, note 1.

[5] And alle mîne men frê, and ilk habbe his toft and his metecû and his metecorn. *C. D.*, 959. Compare *Rectitudines*, 8, every 'esne' had as part of his provisioning a 'metecû.'

was wrought in the legal position of the slave; he became folk-free,[1] could bear the arms and enjoy the rights of a *liber homo.*

It is a matter of some difficulty to classify accurately the slaves, and to discriminate between the names, found in the laws, charters and custumals, which evidently belong to them. We may make, however, one broad division readily deducible from what has already been said. There were two classes common to the slaves of all Teutonic peoples; the one composed of those, who, originally free, had fallen into a position of servitude; the other composed of those who were slaves from birth. Yet we cannot, through the evidence which the laws furnish us, separate rigidly even these two classes. Conditions in Wessex seem to have been somewhat different from those in Kent, and again under the later kings, the classes blend more or less into each other; a confusion of names results, and only general characteristics are discernable. New names are introduced, the exact character of which is not easily explained. The 'esne,' 'lîsung,' 'nŷdtheôwetlinge,' 'theôw,' 'wîte-theôw' were all *servi* and the generic 'man' is frequently used to include all. It is not to be supposed that on each estate there were to be uniformly found the various classes of the unfree. Some estates may have had a score or more of slaves, others but two or three and some none at all. The theôw was most widely distributed and etymologically the term most nearly corresponds to *servus*; the others were exceptional and differed in origin and distribution. In respect of nationality the 'lîsung' bears clearly the marks of a Danish origin,[2] the others cannot be classified in any such manner. From the small holding of the land-owning ceorl, who had his serving man and maid, his loaf-eaters, to the largest manor, monastery or royal estate, where slaves of all classes were to be found, we trace their

[1] *Wihtr.*, 8.

[2] For the 'lîsung' see Thorpe, *Dipl. Sax.*, 592. Kemble, *C. D.*, 980, 981. *Aelf. and Guð.*, 2. Beddoe, *Races of Britain*, 55.

presence and we discover interesting divisions into grades or classes; divisions which seem to depend on the position of their owners, king, eorl, ceorl, bishop, or cleric.

In the *Rectitudines* there are mentioned only two of these classes of slaves, the esne and theôw, and we may make the attempt to understand, at least in part, the position which they occupied, although the laws governing their condition are scattered throughout a period of four centuries, and, as is not improbable, the two classes had become confused by the eleventh century.[1] In origin the esne, although very generally considered a slave, was undoubtedly less servile than the theôw. Maurer would place the esne in a special class of the unfree, as one who received for his work servant's wages (Miethlohn).[2] Hermann calls them the workers as over

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[1] The position of the 'læt' mentioned in the laws of *Aethelbirht*, 26, has never been satisfactorily settled, and it is doubtful if it ever will be. Attempts have been made to derive them historically from the Roman *laeti* and the Germanic *liti*. In all probability, the 'læt' was not a slave at all in the sense of the 'esne' and 'theôw' but stood over the borderline of 'theôwdom' in the position of a 'freolata,' or one manumitted, and was in process of changing his position to that of ceorl. (Geffcken, *Die angelsächische Herrschaft im England*, 95. Hermann, *op. cit.*, 14–22; espec., 21–22, 17; notes 1 and 3. In this connection we may call attention to Hermann's discussions of the word 'hŷnde' as seen in 'twŷ-hŷnde' 'six-hŷnde,' 'twelf-hŷnde,' and its connection with the *litus*. He has no doubt that the 'læt' is the German *litus*. Over against this view we may place Coote's opinion, *R. of B.*, 194). The 'læt' is not mentioned again, and as we find the other classification, eorl, ceorl, esne, theôw, in the laws of Aethelbirht, it seems a reasonable conclusion to believe that they soon became lost in the general body of ceorls. The 'læts' were divided into three ranks or degrees, whose wergelds or 'worths' are definitely stated, a fact not true of the 'esne' and 'theôw.' The amounts were respectively 80, 60 and 40 shillings, the wergeld of the freeman was 200 shillings (§ 21), while the slaves were unvalued. That is all that we know about them. Inasmuch as they do not appear again and without doubt early became extinct or were merged in the class of the ceorls, as was the case with those manumitted in later times, they need not trouble us further.

[2] Maurer, *Kr. Ueb.*, I, 408. From *Aethelbirht*, 85, it has been conjectured that 'esne' and 'ceorl' were synonomous. Jastrow, 62. Leo also held

against the theôwas, the house servants,[1] and the occasional use of 'esne' as implying servant in the Gospels seems to bear out this view.[2] In the laws of Aethelbirht the esne is distinctly separate from the theôw; in the West Saxon laws however the two classes are confused and from that time with one or two exceptions the confusion, the intermingling, increases. The esne of the Kentish laws was found on monasterial as well as secular estates for bishop's, priest's and churchmen's esnes are mentioned.[3] The esne could marry,[4] though such marriage was controlled by the lord; he could earn money as he had to pay a fine often considerable in amount,[5] and if he could not furnish this, or if he could not clear himself of a charge brought against him he was liable to be whipped, which punishment corresponded to hide-money.[6] All control in these matters seem to have been in the hands of the gerêfa. Yet the esne was protected against all save his lord, and if injured by another was paid for as was the freeman, and according to Maurer the amount was regulated by the value of the slave in the eyes of the lord, because the injury was looked upon as an injury done to the possessor of property.[7] The esne in the *Rectitudines* is mentioned in the sense of a poor servant without means of support,[8] though he is carefully distinguished from the 'follower.' He was allowed for his messing a certain quantity of corn—twelve pounds, a much greater weight than our English pounds—

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that the 'esne' might be a landless freeman, a 'follower,' who served as a slave. *Rect.*, 172, n. 14.

[1] Hermann, 40. He says that "esne = dægwerchte in *Saschenspiegel*, III, 44, § 3."

[2] This interpretation of the position of the 'esne' seems to be supported by *Aelfr.*, 43, where the Latin gives *pauperes operarios*, and W.-W., 212.44, where *conditiorius* = 'esnecund.'

[3] *Wihtr.*, 22, 23, 24.

[4] *Aethelbr.*, 85. Thorpe, *Dipl. Sax.*, IV, *passim.*

[5] *Wihtr.*, 9, 10. [6] *Wihtr.*, 22.

[7] Maurer, *Kr. Ueb.*, I, 411. Compare Jastrow, 52.

[8] The Latin text gives *Inopus.*

and the corn must be "good," an important consideration; in addition he received the carcasses of two sheep, and a good cow for her milk, and perhaps for her beef. The esne was also allowed a fixed amount of wood, perhaps fire-wood.[1]

The wîte-theôw is not mentioned in the *Rectitudines*, he was the freeman who had been reduced to slavery through the penalties of the law. This was the convict system of the Anglo-Saxons. A man who had committed crime was considered to have forfeited his right to freedom, he ceased to be folk-free and was held as a slave upon some lord's estate, not necessarily for life, for it was possible for his kindred to redeem him;[2] yet he was liable to be made a theôw, that is reduced to the condition of a slave by birth.[3] The wîte-theôw is not mentioned in the Kentish laws but first appears in the code of Ine and is again mentioned, once only in Aethelstan's law. Yet the prevalence of the custom is evident from the charters and wills.[4] It is presumable that the freemen most frequently suffering such degradation were the gebûras, and this would confirm the previous view regarding the relative numbers of gebûras and cotsetlas for express mention is made of three wîte-theôwas, boor-born, in one of the charters.[5] The term corresponds to that of 'wîte-fæstanmen,' that is, men who were reduced to slavery through the judgment of the courts.[6] These slaves were the first to be emancipated and at the council of Greateleya (between 924 and 930) Aethelstan enjoined upon all the gerêfas the duty of redeeming one wîte-theôw yearly.[7] This feeling of obligation toward these slaves would be due in many instances to their English blood as well as to the fact that they had once been free; yet 'wîte-theôwmen' of other than

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[1] Ánan esne gebyreð tô metsunge XII pund gôdes cornes and II scipæteras and I gôd mete-cû, wudu-rædden be land-side. *R. S. P.*, 8.

[2] *Ine*, 24. [3] *Ib.*, 48.

[4] *Cf. C. D.*, 1290, VI, 132 top. [5] *C. D.*, 1079.

[6] *C. D.*, 716. wîtefæstne man, ðe on his tîman forgylt wære.
722. wîtefæstne man, ðe ic on sprece âhte.

[7] *Aethelst.*, II, proem.

English blood were doubtless not uncommon and it is recorded that such as were of Welsh blood should be judged according to their oath as were the slaves. This passage shows one thing of importance; distinction of nationality did not cease with reduction to slavery, for the English wîte-theôw was to clear himself by 24 hides, while the Welshman required only 12.[1]

The theôw belonged to the class of slaves proper, slaves from birth. This word 'theôw,' passing from the original meaning, a servant, or one who serves, became the technical expression applied to slaves and slavery in general. After the period of Kentish and West Saxon independence the term 'theôw' is universally used and 'esne' is no longer found.[2] This fact and the fact that in the *Rectitudines* the two classes are confused, shows that the esne has undergone a process of degeneration, or rather it shows that the two classes have become one class, the *servi*, and that these were in all probability the predecessors of the *servi* of Domesday. The references in the charters and wills are chiefly to these unfortunates, who were transferred promiscuously with the cattle and other property upon the land granted, 'with meat and with man' as the phrase was.[3] But such transference was a matter of very little concern, it was but a change of masters and brought with it no special hardship; it was not freedom, yet the distinction between freedom and slavery had little of the value which it now has. If the theôw had ever known freedom he had forgotten it and though the labor was hard his support was

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[1] *Ine*, 54. Jastrow, 55-56. Schmid, *Gesetze*, 565e.

[2] Except *Aelfr.*, Introd. 17, where the two are confused, and *Leges*, 43, where a notable distinction is made.

[3] *C. D.*, 311, offers the first instance of such transference. Sex homines, qui prius pertinebant ad villam regiam.

Ib., 315. cum hominibus ad illam pertinentibus.

Ib., 716. and X oxan and II men.

Ib., 795. Istos servos meos et omnia bona et catalla eorum.

Ib., 925. And ic Ulfcytel Osulfes sunu sylle Norðtûn mid mete and mid mannan.

assured. The real hardship came from the hopelessness of his position and his helplessness in the presence of his master, for the law of the land allowed the lord full power, even to the slaying of his slave. In regard to these two hardships, the Church acted vigorously. In no code is the influence of the king and of the Church so marked as in the laws of Aelfred. His own study of the Bible fitted in admirably with the wishes of the Church. He based his law on that of Moses and he accompanied his decrees with quotations from the Gospels. For the benefit of the theôw he called into activity the law from Exodus and thus expressed it: "If any one buy a Christian theôw let him serve VI years, the seventh he shall be free without purchase; with such raiment as he went in with such go he out. If he have a wife go she out with him. If however the lord have given him a wife be she and her child the lord's. But if the theôw shall say, 'I will not from my lord, nor from my wife, nor from my child, nor from my goods,' let his lord bring him to the door of the temple and bore his ear through with an awl, in token that he shall ever hereafter be a theôw."[1] If this law were enforced it would have limited servitude to six years instead of for life; but as there was nothing original about it, it probably was of slight efficiency. An important result would however have been accomplished had it found application upon the royal and monasterial estates, for these included a large proportion of the Anglo-Saxon manors. Two ways are mentioned in which a slave could be freed without purchase or the lord's consent. First, in the laws of Ine, by working on Sunday at the command of the lord,[2] and second, in the law of Aelfred, by the smiting out of an eye or a tooth.[3] That full freedom was conveyed by these trivial causes is probable, for the law of Cnut expressly says so.[4] The first is only explicable on the ground that the punishment fell upon the lord, who was responsible

[1] *Aelfr.*, Introd., 11; *Exodus*, XXI, 2–6.
[2] *Ine*, 3.
[3] *Aelfr.*, Introd., 20; *Exodus*, XXI, 26, 27.
[4] *Cnut*, II, 45, § 3.

for the act of the slave; the second is only so because based upon the Mosaic law. It stands rather strangely beside the assertion that a master was not responsible for his slaves, and Aelfred in adopting the full Mosaic code accepts the biblical statement that the slave was a man's property and maltreatment of him, within certain limits, was permissable.[1] On this point however, the Church took a more positive attitude and issued peremptory commands to all who followed its precepts. It excommunicated or exacted severe penance of each one who killed a slave without witness of the law or evidence of his guilt, and it threatened with punishment all women who flogged too severely their *ancillae* or 'burwomen.'[2] So subject was the theôw that he had to pay bôt or be flogged for a great many minor offenses. In Wessex, under Wihtræd, he was forbidden to work on Sunday, to make offerings to devils, that is, to heathen gods, or to eat of his own free will.[3]

The fact that the slave could free himself as well as his wife and children through purchase leads to the conclusion that he could accumulate money, though only the slightest indication of this is given in the *Rectitudines*. The fact however that he paid a bôt, a fine for injuries done and offences commited would strengthen this conclusion, which Aelfred's law and the Poenitentials put beyond doubt. In granting special days for both slave and free that either be not overworked, the former were allowed the four Wednesdays in the four Ember weeks and furthermore all money, which was given to them in God's name and all that they could earn in the free time—'snatches

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[1] *Aelfr.*, Introd., 17; *Exodus*, XXI, 20, 21.

[2] *Poenit. Theod.*, 21, §§ 12, 13. *Poenit. Ecgbert.*, 2, § 3. In the *Vocabularies*, (W.-W.), *ancilla* is glossed 'wyln,' 108, 28, which signifies a woman of foreign or Welsh blood; 'mennen,' 341, 9; 'þinen,' 344, 14; 'burwoman,' 691, 41. It is suggestive that the earliest gloss is 'wyln,' and it is also the most frequent, thus showing the use to which the Welsh women were put, who were captured in the conquest.

[3] *Wiht.*, 9, 10, 13, 15.

of time' as the text says,[1]—granted them for their own work.[2] The Poenitentials forbade any lord to take from the slave what he had earned through his own labor.[3] These earnings became a kind of *peculium* and the formation of such a private property would explain how the slave could pay his fine and how he could purchase himself from slavery, though as Maurer points out, it was in clear contradiction to the legal position of the slave as having neither property nor rights.[4] Further evidence is given in the *Rectitudines* of this privilege of accumulating money, as well as the privilege of holding land whereon to labor, and wherefrom to add to his store when free from his duty to the lord. To all the 'æhte-men,' that is to all those who were classed with the property of the lord, there was allowed one acre of land to plough, and, under the name of harvest-handful, a bunch of corn, that is, a small sheaf of wheat or rye, from each acre when it was cut in the harvest.[5] Also in the allowance made to the slave women for their messing there is the mention of a few pence, which they could receive instead of a certain allowance of whey. Regarding this messing, which was allowed for their support, we are given sufficient information to show that good care was taken of them. All slaves and followers, who served in the house or on the inland of the estate, ate in the master's house, probably at the master's table.[6] The time for their messing was fixed, for as we have already said, the theôw was forbidden to eat of his own free will. The allowance of the esne has already been noted; to the slave women, who belonged to the household and do-

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[1] hwîl-sticcum. [2] *Aelf.*, 43.

[3] *Poenit. Theod.*, 19, § 30; *Ecgb. Add.*, 35. (Thorpe, *Anc. Laws and Inst.*, II, 239.)

[4] Maurer, *Kr. Ueb.*, I, 413-414.

[5] Eallum æhte-mannum gebyreð Mid-wintres feorm and Eâstor-feorm, sulh-æcer and hærfest-handful, tô eâcan heora nŷd-rihte. *R. S. P.*, 9, § 1.

[6] Called 'hlaf-æhte' loaf-eaters. At this time we are probably to understand by 'hlaf-æhte' only the lord's immediate dependents, but in earlier times the term had a much more general application.

mestic department, an amount of food was given, which was not inconsiderable. Eight pounds of corn, a sheep, or instead, three pence for winter 'sufle,' which was a general term, including anything eaten with bread, such as flesh, fish or cheese; a sester of beans during the Lenten season, and during the summer an allowance of whey, or instead, one penny.[1] In the dialogue of Solomon and Saturn the closing statement is, "Thou shalt give thy theôw 720 loaves besides morning and noon meals;" according to this the slave would receive, in addition to his two regular meals, two loaves of bread per day, probably of a nature similar to the familiar black bread.[2] It is probable that the esne and theôw are not distinguished in the *Rectitudines*, and therefore the allowance given to the former may be taken as applying equally well to the latter, if, as is doubtful, we can, at this time, draw any distinction between them.

Before closing our discussion of the theôw there is one statement, made incidentally in the *Rectitudines*, which deserves attention. Notwithstanding the fact that in the earlier laws the slave was looked upon as possessing no rights, nevertheless by the eleventh century he had certainly acquired some moral if not legal recognition. For the document speaks clearly of "all those rights (gerihtu, *rectitudines*) which belong to the 'theôwan men.'"[3] The slave had become a more important member of the folk, a member with a personal importance, not a mere thing, a chattel, but a man with a strip of land to cultivate, an opportunity to accumulate a little money, and with rights pertaining to himself which were generally recognized. This beginning of land holding becomes

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[1] þeôwan wîfmen VIII pund cornes tô mete, I sceap oððe III pen. tô winter-sufle, I syster beâna tô længten-sufle, hwæig on sumera oððe I pen. *R. S. P.*, 9.

[2] *Salomon et Saturn* (ed. Kemble, Aelfric Soc.), 192.

[3] and elles þa gerihtu þe þeowan men to gebyriað. The Latin text is, et amplius eas rectitudines, quae servo jure pertinent. *R. S. P.*, 7.

increasingly more important, until in the Hundred Rolls of the thirteenth century we find the slave regularly holding a portion of the common field, paying a rent, working at the will of his lord, and in the eyes of the law not to be distinguished from the *villanus*.[1]

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[1] *Rot. Hund.*, II, 824–826.

CHAPTER IV.

The Special Workers.

After this review of the various classes or degrees of status upon the Anglo-Saxon estate, there yet remains another point of view from which to look upon the peasant life, a point of view which will show us no new grades of tenantry but which will disclose special workers among the grades themselves. In an almost strictly agricultural community where the life and activity was concentrated within very narrow bounds, where there was practically little or no contact with other estates or with the life in the municipal centres, and for the tenantry only an occasional stepping beyond the boundaries of the manor, when they were doing carrying duty to market, it is not surprising that little differentiation of labor had taken place and that almost no change is to be noted in the manner of life within these isolated agricultural communities for four centuries. Whatever had been the nature of the changes through which the manorial organization had passed before the time of the *Rectitudines* is of no immediate interest in this connection. By 1000 A. D. the life on such estates had become in a large measure fixed, though everywhere showing a varying uniformity, if we may be allowed the paradox, bringing about in its development a combined amelioration and degradation in the status of the individuals.

But the needs of the community life were satisfied almost wholly from the ploughing and tilling of the ground and from the use and increase of the domestic animals; what handi-workers or craftsmen came into existence were mainly for

the furthering of these same needs rather than for the satisfaction of new tastes or the development of new duties. The gebûras gave up their entire time to the ploughing, sowing, mowing and reaping, hedging and thatching, either upon their own yard-lands for their own support or upon the lord's demesne land. The cotsetlas did much the same, ploughing and sowing, while both did carting and errand running, leading cart and horse loads of hay, corn and wood within the estate, and carrying corn, ale and honey occasionally to market. The slaves, the theôwas and esnes, labored on the inland, led the plough team like the *bovarii* of later times, tilled the garden enclosures, did in most part the domestic work and the general drudgery and probably assisted the gebûras in the more important work which they were called upon to perform upon the inland. It may be that their wives, or with equal probability some of the theôwas themselves, prepared the food, bread, salt and cheese and did the little housework demanded, while last of all the *ancillae,* named always last in the Domesday enumeration, waited on their mistresses in their chambers. But in this brief résumé many of the regular duties have been omitted and these were provided for by the selection of men from the classes already mentioned, who did this part of the work and received in return extra land for tillage, or certain perquisites useful in their own cottage life.

Already has notice been taken of the gerêfa, the bydel and the brytta, as their position and duties called for special mention. We then spoke of the possible existence of more than one brytta or overseer, temporarily appointed to look after certain classes of work, and there is occasional reference to such in the Boldon Book, though not with distinguishing names. The only other tenant who seems to belong to laborers of this kind is the sower, 'sædere,' whom we may consider to have been a kind of superintendent of the sowers, for it is hardly probable that he himself performed the whole duty of sowing the ploughed land. In the later period, when the number of irregular and individual holdings had largely

increased, it seems to have been the custom for each villein to be himself the sower of his arable, for no record is found in the manorial account books of payments for such services. In the *Rectitudines* much of this labor was performed by the gebûras and cotsetlas as part of their weekly work, and probably the slaves aided. These the sower himself might oversee, as a man selected for skill and experience, instructing others as he may have been instructed, and generally watching that the sowing was well done, not only in the lord's arable but also within the whole open field, where because of the close contiguity of the strips, bad seed and bad sowing would be of serious consequence to all holding land therein and the lord had his yard-lands as had the others. In the illustrations we see the sower following directly after the plough, so that to all appearances the field was not harrowed.[1] There is a word in the *Gerefa* which seems to point to the use of a harrow or

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[1] For illustrations of the sower see the *Pictorial History of England*, I, 277–8, copy from *Cotton. Tib., B. 5*, the Saxon Calendar, where two views, one sowing after plowing, the other after spading are given. *Pict. Hist.*, I, 278, 283, from *Harleian MS. 603; Pict. Hist.*, I, 280, from *Cotton. Nero. C. 4.*

Compare the last of these illustrations with Fitzherbert's advice to the sower of corn and beans.

"Put thy pees into thy hopper and take a broad thonge of ledder, or of garthe-webbe of an elle long, and fasten it to bothe endes of the hopper and put it over thy head, lyke a leysshe; and stande in the myddes of the lande, where the sacke lyethe, the which is most convenient for the fyllinge of thy hopper, and set thy left foot before and take an handefull of pees; and whan thou takeste up thy ryghte foote than cast thy pees fro the all abrode; and when thy left fote ryseth, than take another handful and when the right fote ryseth, than cast them fro the. And so at every ii paces thou shalt sow an handful of pees and sò sè that the foot and the hand agree and than ye shall sow even. And in your castynge, ye must as well use your fingers as your hand. . . . . And if the land be very good and wyll breke small in the plowynge it is better to sow after the plough than tarry any longer." Fitzherbert, *Husbandry*, 19. This tallies almost exactly with the manner of sowing shown in the illustrations, even to the leash holding the seed-tub and the opening of the fingers in casting the seed, as well as the sowing directly after the plough. From *Walter of Henley* we might infer that harrowing came at times after the sowing, 15. *Cf.* Cynewulf, *Riddle*, 22, l. 6.

something analogous: a tool which might quite as well have been employed in the lord's vegetable garden as on the larger strips in the open fields. Harrowing was probably very early used not for breaking up the clods but for covering over the seed.[1] To the sower was given as a perquisite one full 'leâp' of each variety of corn which he used. The capacity of the 'leâp' is wholly uncertain. It was made either of wood or wicker-work and was generally used for fruits, seeds and herbs and even for fish; and is mentioned among the baskets in the *Gerefa*.[2] The fact of such a perquisite shows that the sower was of the classes to whom land was allotted, and it is difficult to consider him as a slave because the importance of the duty would demand for the oversight of it one of those higher in position, although doubtless many under him were slaves, as the character of the dress in the Calendar illustration shows. The sower was required in any case to do his work well during the year or the basket of seed might not be allowed him.[3]

But in addition to the ploughing there were other domestic interests which demanded the attention of the gerêfa, and which were put under the charge of others of the laborers, who gained therefrom a certain additional support or exemption from some of the regular and stated duties. These interests were the care of bees, swine and other domestic animals, and the watching of the wood and the hedge. Apparently of first importance among these was the keeper of the bees, *apium*

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[1] The word in the *Gerefa* is 'egeðgetigu.' This word is an important one. The OHG form for harrow, to harrow is 'egida,' 'egjan.' It was probably from this that Liebermann conjectured the meaning of 'egeðgetigu' (Schrader, 283). In the eighth cent. gloss 'egiðe' is translated *raster* (W.-W., 43.1). From this we see that the root contains the idea of a harrow or to harrow. Possibly what we have above is a kind of hand-harrow in the form of a toothed rake for breaking up spaded or ploughed ground.

[2] Glossed, *corbis, nassa, cophinus, calatus.* The form in the *Gerefa* is 'sædleap,' 17.

[3] Sêdere gebyreð, þæt he hæbbe ælces sæd-cynnes ænne leâp fulne, þonne he ælc sæd wel gesâwen hæbbe, of er geâres fyrst. *R. S. P.*, 11.

custos,[1] *apiarius*,[2] *mellitarius*,[3] for the maintenance of bees was of sufficient importance to call for the employment of a man for that special work. What governed the selection of the bee-keeper would be naturally a special aptitude, and it is more than probable that gebûras were chiefly employed for this work. Certainly was this the case at Hatfield, where Hwîta, a gebûr, was a bee-keeper,[4] and it seems quite likely that each gebûr or cotsetla may have had bees of his own. The beo-ceorl, while a gebûr, held his swarm of bees in much the same manner as the others of his class held their land. The swarm was a part of the beo-ceorl's allotment and he paid gafol in honey, the amount of which varied with the situation of the manor, and this gafol corresponded to the payment by the other gebûras of corn, chickens, lambs and pence. The honey was measured in sesters or *amphorae*, and five constituted the gafol on the estate which the author of the *Rectitudines* has in mind, an amount smaller than on estates elsewhere. In the *Gerefa* we find mention of the accompaniments of this industry, bee-hives and honey-bins. Bee culture reached, to all appearances, a high state of cultivation among the Anglo-Saxons, and was held in peculiar regard by the people as the chief element in a favorite drink. Returns of bee-hives are frequent in Domesday, though but two *custodes apium* are found, and nine *mellitarii* on an estate in Wiltshire.[5] There would appear to have been a falling off in this industry in the period after the Conquest, for the returns of bee-hives become very infrequent, and Rogers notes that, although honey was dear and wax very high in the thirteenth century, bees do not appear to have been common.[6]

A question arises here which we can only presumptively settle; what was the character of the holding of land which

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[1] *R. S. P.*, Latin translation. See also *Boldon Buke.*

[2] W.-W., 256, 8; 352, 13. [3] *Wiltshire Domesday.*

[4] Hwîta hâtte wæs beôcere intô Hæðfelda. *C. D.*, 1354; Earle, *L. C.*, 276.

[5] *Wiltshire Domesday*, 13.

[6] Rogers, *Agric. and Prices*, I, 18. *Cf.* Leo, 128–129.

the beo-ceorl had? There is no doubt that he held land, but what was its nature cannot be satisfactorily determined. It may have corresponded to the holding of the other gebûras; it may have been of the nature of an irregular allotment in the demesne or essarts, but in the latter case it is probable that it would have been mentioned. The bee-keeper in the Boldon Book was allowed six acres for his services and these acres were apparantly not in the open field where the villein holdings were located.[1] But wherever the land of the beo-ceorl was situated it was held *ad opus* and in general terms the measure of the work is given. He was at certain times to be ready to work at his lord's will, which need imply nothing more than that his extra duties were not so definitely stated as were those of the other gebûras. In addition he was burdened with the services called *precariae,* ben-ploughing and bedrips,[2] ploughing at the request and reaping at the bidding of the lord, while he also did meadow-mowing, perhaps as a *precatio,* for there is no mention of week-work. Then the document says that if the beo-ceorl be well landed, *i. e.* equipped with a good holding, hê shall be enhorsed, *i. e.* possessed of a horse, that he might offer it to his lord for carting 'seams' or wagon loads of grain (*summagium*), for if he did not furnish a horse he was himself to lead the load. This sentence at once shows us that the beo-ceorl possessed land though just what 'gyf he wel gelend bîð' (*si bonam terram habeat*) may mean can only be conjectured. It may refer to the quality of the land or to its amount, but it gives no clue to the nature of the holding. The amount of definitely stated work is small but this is counterbalanced by the special duties of his office and by the fact that he was liable at given periods to be called upon to work at the lord's command. Again does the author say that there are many things which this man shall do according to the custom, the number of which he cannot tell. This may be merely tautology; it may indicate that the beo-ceorl was a

[1] *Boldon Buke,* 28.

[2] See above, page 159, note 1.

much overworked man in a condition apparently as bonded as the other freeman, for, as belonging to the class of ceorls, gebûras, we do not doubt that, in the sense of the word as here used, the beo-ceorl was free. The concluding clause shows that this was so. In this it is stated that at the death of the beo-ceorl all that which he had left was to go into the possession of the lord except what might be 'free.'[1] This seems to mean that the bee-swarm and all that the lord had provided should return to the lord; but whatever had been previously owned or gained by the ceorl himself, in the shape of stock, produce or money was to remain in the possession of his family. The bee-keeper as a freeman and a ceorl had under him a slave who performed the most menial part of the labor.[2]

A similar position to that of the beo-ceorl was held by the keeper of the swine; under whom, as under the beo-ceorl, there were slaves, who did the drudgery. This man was the *porcarius*, and he stood with the keeper of the bees as the most important of those entrusted with special duties. Like the bee-keeper he was a gebûr who paid gafol.[3] There was no more important part of the agricultural life than the keeping

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[1] By 'hwet friges sŷ' we are undoubtedly to understand that which was the gebûr's property as over against that which the lord provided him. The use of the word 'free' would seem to point to a time, when more of the gebûr's property was free, like himself, and at the same time to indicate that even at this time he was not in absolute serfdom if both he and part of his property were still considered legally free. The eclipse of his original freedom has not even now become total.

[2] Beô-ceorle gebyreð, gif he gafol-hearde healt, þæt he sylle þonne lande gerâd beô. Mid ûs is gerâd, þæt he sylle V sustras huniges tô gafole, on suman landum gebyred mâre gafol-râden. Eâc he sceal hwîl-tîdum geara beôn on manegum weorcum tô hlâfordes willan, tô eâcan bên-yrðe and bed-rîpe and mâd-mâwecte; and gyf he well gelend bið, he sceal beôn gehorsað, þæt he mæge tô hlâfordes seâme þæt syllan oððe sylf lædan, swæðer him man tâece; and fela þinga swâ gerad man sceal dôn; eal ic nû âtellan ne mæig. Þonne him ford-sið gebyrige, hêde se hlâford þæs he lâfe, bute hwet friges sŷ. *R. S. P.*, 5.

[3] Wærlâf was a gebûr at Hatfield and he held 'ða grêgan swŷn.' He was the swine-keeper. *C. D.*, 1354; Earle, *L. C.*, 276.

of swine, and its universal prevalence is attested by the payment of the grass-swine. Pork and bacon were prominent as food among the tenantry, as the survival of the latter word clearly shows and the value of a swine was second only to the value of an ox and a horse; and these necessarily stood higher in importance, as the draught animals of the estate.[1] Then too the importance of swine is seen in the place which the mast-bearing woods occupied in the laws[2] as well as the frequency of the pastures to which they were driven at certain seasons of the year, for the swine were not allowed in the meadow or on the stubble, for their grubbing and rooting would soon spoil it for the other animals. Domesday book furnishes abundant evidence of the presence of small woods and coppices used for the purpose of providing mast, and mentions 427 *porcarii* and 2 *rustici porcarii*, a distinction which may point to the slave assistants and the ceorlish swine keepers. In the charters, also, there is occasional mention of the mast-yielding woods, which often formed a part of the boundaries, and the acorns and beechnuts were beaten down by the herdsman, as well as left to fall when ripe.[3] It is needless to multiply instances of swine pastures, of which these wood-groves formed a part. Such were to be found on every estate, either held in the lord's hands, in which case, and this was by far the most frequent, the tenants paid their grass-swine as pannage—afterwards commuted for a money payment—or held by a few ceorls in common. Frequently special names were given to such pastures, though often they

[1] In Aethelstan's laws the ox was valued at thirty pence, a cow at twenty, a swine at ten. VI, 6, § 2.

In William's laws it was estimated in one place that the value of a swine was half that of a cow or horse, I, 5; and again in reckoning equivalents for the payment of the 'wer,' the stud-horse was valued at thirty solidi, the bull at ten and the boar-pig at five. I, 9.

[2] A fine of six shillings was exacted for masting swine without proper license. *Ine*, 49.

[3] As is evident from an old Saxon illustration in *Pict. Hist.*, I, 277, copied from *Cotton. Nero., C.* 4.

were simply designated as *pascua porcorum*.[1] The woods are frequently spoken of as capable of masting a certain number of swine, and the number which an estate possessed was often very great. Abba, a gerêfa, left by will, in 833, a herd of a hundred swine;[2] and duke Elfred, about fifty years later, bequeathed in herds one lot of two thousand swine, and four of one hundred.[3] Naturally, for attendance upon such immense herds, one man would hardly suffice; and we are not surprised to find in one manor, in Devon, four swineherds,[4] and in another, in Wilts, twenty-nine.[5] But the hundreds of smaller manors contained no such numbers as these, and one or two swine herds would probably readily suffice for the labor, particularly when aided by theôwas. The driving of the swine back and forth from mast was in the charge of a slave, who seems to be the same as the 'in-swân' in the section treating of the gebûr, and to him was given, as we saw then, six loaves for his support by each gebûr. It may be noted that later, at Lanchester, in the Durham Palatinate, the same duty was performed by the villeins and cotmen, each of whom received a loaf on bringing in the swine.[6] But the work of the gafol-swân was of a higher order than that performed by the slave. He slaughtered, dressed and prepared the pork and hams of the fifteen swine, which he presented as gafol to his lord; a payment which corresponded to the five sesters of honey which the beo-ceorl gave. Of these fifteen, tén were to be old pigs and the remaining five

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[1] Hec sunt nomina pastus porcorum qui pertinent ad Staumere. fischyrste æscincuinc, healeswyrth walcanstede, lendenfelda, bri bacan scylfes, wille bocgeselle, leofecildes cot. Birch, *C. S.*, I, 280. . . . in diversis locis porcorum pastus, id est wealdbæra, ubi dicitur Holenspic. *C. D.*, 152. Also Denberum, a common term. *C. D.*, 198, 288, 364, 1073. Notice also the 'wudu-leswe,' over which the swân-gerêfa had charge. *C. D.*, 219. In *C. D.*, 198, are six pastures with names; in 288, six; in 364, eighteen.

[2] *C. D.*, 235; Earle, *L. C.*, 109; Birch, *C. S.*, I, 575; Thorpe, *D. S.*, 470.

[3] *C. D.*, 317; Earle, *L. C.*, 149–150; Thorpe, *D. S.*, 481–482.

[4] *Devon Domesday* (publ. Devon Soc.), 37.

[5] *Wiltshire Domesday*, 13.

[6] *Boldon Buke*, 31.

shoats. These the gafol-swân made ready, after the slaughtering, by singeing and scraping, and then his labor on them was completed, and if he performed his work well he was to be worthy of his swân-right. This consisted of all the swine of the gafol-herd over and above the fifteen presented to the lord. Of additional labors on the part of the gafol-swân, or the amount of land he possessed, we are told almost nothing. That he held land, as did the beo-ceorl, there is reason to believe, for the wording of the gafol-swân's right seems to imply it. "He shall be often ready, as I have already said of the bee-ceorl, for all kinds of work, and he shall possess a horse for his lord's need;" and there is evidence that the *porcarius* of 1128 had a holding.[1] Though no *precariae* are mentioned, yet in the other respects the positions are practically identical. The gafol-swân seems to be somewhat more heavily burdened than the beo-ceorl, but the differences are very slight, and there is no reason for thinking him to have been landless. In the work of slaughtering and herding he was aided by theôwas, called the 'theôw-swân' and 'æhte-swân,' and to the latter, who had charge of the in-herd, the herd of the manor, there was given as a perquisite a young pig from the stye, and at times of slaughtering the entrails of the slaughtered animals;[2] and he appears to have himself prepared the bacon and lard. This shows us two constructions which we may reasonably suppose existed within the court of the manor, the pig-stye (*porcarium*) and the larder (spic-house,[3] *lardarium*), for a part of the swine-herd always remained in the manor while the main herd had pens in the mast woods, and the 'æhte-swân'

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[1] et i porcarius qui . . . tenet viii acras. *Liber Niger*, 164.

[2] The swine herd of Glastonbury Abbey received almost identical perquisites, one sucking pig a year, the entrails of the best pig, and the tails of all the others which were slaughtered in the Abbey. *Glaston. Inq. of* 1189, 16, 17; Vinogradoff, *Villainage*, 321.

[3] Glossed always *taxea, lardum* or *laridum*.

hung up the prepared hams, bacon, lard as well as cheese[1] in the building constructed for that purpose.[2]

The importance of the position occupied by these workers is evident from the prominence given them in the document directly after the gebûr and cotsetla, from the character of the main service which they performed and from the fact that their additional duties are given with a care and detail only less than that bestowed on the duties of the other gebûras. But there were a number of other workers, with special functions, whose position it is not so easy to determine. These were the herdsmen and the wards of wood and hedge. Kemble classes them all directly with the slaves, but allows that some may have held a higher position than others.[3] Leo more guardedly, and with less tendency to sweeping assertion, thinks that in many cases the office may have been held by a gebûr or by a slave, who for faithfulness or marked ability had been granted a holding similar to that of the gebûr.[4] Each presumption has evidence in its support, though we believe that the majority of them were gebûras with regular holdings.[5]

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[1] Cheese as well as other edibles (such as were included in the term *companagium* or 'sufle') was kept in the 'spic-hûs' at Abingdon. *Chron. Abing.*, II, 240, 404, etc.

[2] Gafol-swâne gebyreð, þæt he sylle his slyht, be þâm þe on lande stent. On manegum landum stent, þæt he sylle ælce geâre XV swŷn tô sticunge, X ealde and V gynge; hæbbe sylf þæt he ofer þæt ârêre. On manegum landum gebyreð deôpre swân-riht. Gŷme eâc swân, þæt he after sticunge his slyht-swŷn wel behweorfe, sæncge, þonne bîð he ful wel gewyrces wyrðe; eâc he sceal beôn, swa ic êr be beôcere cwæð, oft-rêde tô gehwilcon weorce, and gehorsad tô hlâfordes neôde. Þeôw-swân and þeôw-beôcere æfter forð-sîðe be ânre lage wyrðe. *R. S. P.*, 6.

Æhte-swâne, þe in-heorde healt, gebyreð stî-fearh and his gewirce, þonne he spic behworfen hæfð, and elles þâ gerihtu, þe þeôwan men tô-gebyriað. *R. S. P.*, 7.

[3] Kemble, *Saxons*, I, 215. [4] Leo, *Rect.*, 125–126.

[5] Vinogradoff, speaking of the customs of the thirteenth century, says, "Grants of domanial land occur commonly in return for services rendered in the administration of the manor; reeves, ploughmen, herdsmen, woodwards are sometimes recompensed in this manner, instead of being liberated from the duties incumbent on their holding." *Villainage*, 327.

We know that it was possible for an esne and theôw to hold land, yet we have had no reason for thinking that he had an outfit which corresponded in any way to the 'settene' of the gebûr. There is little evidence from which to draw deductions in this matter, but what there is amounts, generally speaking, to this. Two of the herdsmen possessed draught animals, a fact which may be doubted of the slave, for we only know that the esne had a cow, not used for labor but for support. The haward had land and the perquisites of the others were of such a nature as to seem valuable and useful to one who had some land and endowment of his own. The only exceptions to this were the woodward and dairy woman. This will be made clear as we continue.

First among the herdsman was the ox-herd, *bubulcus*, a man of importance in his way and evidently with a considerable outfit. He held two oxen and at times apparently more—according to the text—and a heifer, so that when we compare this with the regular outfit of the gebûr we see that only the sheep and the land are lacking. But as there is no effort in the clause to enumerate the full rights and services of the ox-herd it would seem as if such had already been named and there was no need to repeat them. The two oxen and the cow are only mentioned incidentally so that an argument from silence has. practically no place here. We might therefore conclude that the ox-herd was either a gebûr, cotsetla or a slave, and we have no hesitation in saying that he did not belong to the second of these classes because the cotsetla not sharing in the co-aration had no oxen, and on account of the size of the ox-herd's outfit, we should hardly consider him a slave. This would place him with the class of gebûras. The ox-herd had charge of the oxen of the lord, un-folded them and drove them to the common pasture. As the ox-herd's return for his duties as herdsman he had the right to send his own two oxen or more with his lord's cattle to the common pasture and to place his heifer—evidently for breeding purposes—with the manor oxen. Yet it has been supposed and

rightly that with the yard-land of the gebûr there went also rights in pasture, meadow and woodland and it would seem that if the ox-herd were a gebûr he should have had the right to pasture his oxen in the common pasture not as a privilege derived from his extra labor, but by virtue of the 'settene,' which the lord had given him. This fact seems to militate against the identification of the ox-herd as a gebûr, and to show that he had not a gebûr's full rights. As such rights went with the land which he held and not with the outfit we may infer that the ox-herd had a limited amount of land. Another objection will be noted in discussing the common pasture.

The duties of the ox-herd as given in the Colloquy of Archbishop Aelfric were not light. The oxen were employed during the day for ploughing and as soon as loosed by the ploughman from the yoke they were taken charge of by the ox-herd, who drove them to the pasture, where he remained during the night for fear of thieves. In the early morning he returned them to the ploughman, well fed and watered.[1] That the pasture was the 'gemænre læse' there can be little doubt,[2] and we know that at times the oxen were fed on something else than the grass in the pasture, for in Aelfric's elaboration of Bede's story of the injured herdsman, we are told that the latter had fallen from an oak tree, where he had been engaged in throwing down the leaves for the cattle to feed upon.[3] As this labor was performed during the autumn, spring and summer months, it would not appear to have been more burdensome than that which the gebûr performed in lying at the lord's folds from Martinmas until Easter, for during the winter the cattle would be enfolded in the pens upon the

[1] W.-W., I, 91.

[2] Common pastures are frequently mentioned in the charters. Communionem marisci quae ad illam villam antiquitus cum recto pertinebat. *C. D.*, 276. and seo læs is to foran eallum mannum gemæne in than heaðfelda. Nasse, 27.

[3] Aelfric's *Hom.*, II, 150.

inland. It was, apparently, this latter duty that Caedmon was performing when the inspiration of song came upon him, for he had gone out from the entertainment, 'gebeôrscipe'[1] in somebody's house in the tûn to the 'neata scypene,' the ox-stall, where he had been bidden to watch the lord's herd during the night. Such stall we know stood within the inland enclosure and not in the pasture. Caedmon, we are distinctly told, had a home, a 'hûs,' of his own, and was accustomed to meet in the 'flet' of his neighbors, whenever a 'gebeôrscipe' was given. We learn another fact, of small moment, but worthy of note; the ox-herd slept at his post when watching on the inland, for Caedmon had composed his limbs for a night's rest and was sleeping in the stall when the vision came to him, and this was apparently the custom. While we may be somewhat uncertain as to which class Caedmon belonged, whether gebûr or not, it is of interest to find that when he awoke from his dream he went directly to the 'tûngerêfa,' who was "his ealdorman" says the text,[3] and reported his dream, and was then led by the gerêfa to the lord, who was the abbess of the monastery. Thereupon Caedmon gave up his life as a gebûr and became a brother in the monastery. Such promotion was quite in accord with the spirit of Anglo-Saxon times;

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[1] It was at a 'gebeôrscipe' that Herod's daughter danced, according to Aelfric. *Hom.*, I, 480. This was in the 'flet' according to the Gospels. In early Kentish days each house had its 'flet' and the same must have been true in Caedmon's time, not a century later.

[2] Wæs he se man in weoruld hade geseted oþ ðа tide ðe he wæs gelyfedre yldo and he næfre ænig leow geleornede and he for þon oft in gebeorscipe ðonne ðær wæs blisse intinga gedemed þe hi ealle sceoldan ðurh endebyrdnesse be hearpan singan. ðonne he geseah ða hearpan him nealæcan ðonne aras he for sceome from ðam symle; and ham eode to his huse; þa he þe ða sumere tide dyde þe he forlet ða hus ðæs gebeorscipes and ut wæs gongende to neata scypene [ðara] heorde him wæs ðære betoden, ða he ða ðær on gelimplicre tide his limo on reste gesette and onslæpte, etc. *Bede*, IV, 24. From Smith's edition of Bede, Canterbury, MDCCXXII.

[3] Ða com he on morgene to ðam tungerefan se ðe his ealdorman was. *Ib.*

it was possible for a swine-herd to rise to be a bishop, as the story of Denewulf shows.[1]

Turning from the herdsman to the pasture, we find in the laws of Eadgar passed in the decade, 964-974, after there had come peace upon the long troubled kingdom, valuable information which throws some light upon the rigidity with which rights in the common pasture were looked after.[2] "And he who rides," says the law, "in search of a bargain (in cattle) let him declare to his neighbors (neah-gebûras) concerning what he rides and when he returns home let him declare in what witness he bought the thing bargained for. But if he unexpectedly conclude a bargain, while out on a journey without having declared it when he rode out then let him bring it into the common pasture (gemænre læse) in the witness of the township.[3] But if he does not do this before the fifth day let the townsman declare it to the 'hundreds ealdre' and let them be without punishment, both themselves and their herdsman; but let him who brought them thither forfeit the cattle because he would not declare it to his fellow gebûras, and let the 'land-rîca'[4] take half (of the cattle) and the 'hundred' half. But if it remain over five days undeclared in the common pasture, let him forfeit, as before said, and let each of the herdsman suffer punishment; nor can this be forgiven; let them seek what they may seek and nevertheless let him declare in whose witness he bought the cattle." The law adds that even though the purchaser could show that he lawfully bought the cattle and the 'hundreds ealdre' be informed that he lawfully bought them, yet must he forfeit them because he would not declare it to his fellow gebûras

[1] Pauli, *Life of Alfred*, (Bohn edit.), 102. *Cf.* Schmid, Anhang IV, 22, sceap-hyrde tô cynge, . . . fiscere tô biscope. . . .

[2] *Edgar, Suppl.*, 7, 8, 9, 10.

[3] The 'tûnscip' is carefully distinguished from the tûn proper.

[4] The owner of the land whether eorl or thegn. A term which seems to have been given only to the owner of bôcland. *Fundos* = bôcland *vel* 'landrice.' W.-W., 247, 6.

nor to the 'hundredes ealdre.' From this we learn of the system of witness and responsibility under which the gebûras and the herdsmen lay with regard to the purchase of cattle; it seems to show that the gebûr could pass beyond the boundaries of the manor in effecting such a purchase, and that he had a right to use the common pasture for such cattle in case he made it known to his fellow gebûras and to the head man of the hundred, to whom Eadgar gave the supervision of purchase and witness. We cannot think that such careful supervision was at all new, though the placing of it in the hands of the 'hundredes ealdre' may have been an innovation. In the *Rectitudines* it is found apparently in the hands of the gerêfa, who must have always exercised it upon any large estate, for the ox-herd had to obtain the witness of his ealdorman before placing his oxen in the common pasture, and this functionary, we feel sure, was the head officer of the estate, the gerêfa, as has already been seen in several instances. We learn furthermore that the thieving of cattle, against which the ox-herd was to guard, as stated in Aelfric's Colloquy, was not done by outlaws but by the gebûras of adjacent manors, for the law of Edgar adds, in a later paragraph: "If (the purchaser) declare that he bought the cattle with witness, and that be false, then is he a thief and let him forfeit his head and all which he possesses, and let the 'land-hlâford' hold the cattle and the cattle's price until the free owner be informed of it, and with witness claim the cattle."[1] From these passages we should infer that the ox-herd was not a gebûr, because of the frequent mention of the townsmen (tûnes-men), who can be no other than the neah-gebûras, spoken of in another connection, and their 'hyrdas,' who, as section 9 says, were, in case the oxen remained unreported in the pasture, to suffer with their hide, that is, to be flogged or pay hide money, and only slaves were so treated. If the herders here spoken of be not of the same nature as the 'theôw-beôcere' and 'theôw-

[1] *Eadgar, Suppl.*, 11.

swân,' servile subordinates to a head ox-herder, then we have an instance of a slave with oxen and cows, with the privilege of sending his oxen to the common pasture, and of putting his cow in with the lord's oxen, and of receiving as an additional perquisite shoeing and gloving.[1] There seems to be no definite way of coming to a conclusion in the matter. It may be that there was no uniform rule.

In examining the later custumals and manorial accounts we find less frequent mention of the ox-herd (*bubulcus*) than of the cow-herd (*vaccarius*), unless we consider the *bovarius* to have been an ox-herd, which is contrary to the usual interpretation.[2] In Rogers' tables of the money wages of farm servants, 1261–1400, the ox-herd is mentioned but four times, the cow-herd, thirty-four.[3] There is no mention of the ox-herd in the Burton Chartulary, none in the Liber Niger. The explanation seems clear; the duties of the ox-herd and cow-herd, which in the *Rectitudines* are kept separate, have become confounded, and the duties of the latter included those of the former. In the Liber Niger the *vaccarius* guarded not merely the cows, but the bulls, calves and working oxen in the pasture or fold,[4] and for land he held four acres while his wife mowed half an acre a week.[5] In the Burton Chartulary the *vaccarius* held a certain number of ox-gangs *ad opus*.[6] The cow-herd of the *Rectitudines* had a heifer, but the document mentions nothing more, and the heifer we know was a regular allowance of the esne. Furthermore the cow-herd had charge of the milking and calving of the cows, and he was allowed as a perquisite all the milk of an old cow for

[1] Oxan-hyrde môt læswian II oxan oððe mâ mid hlâfordes heorde on gemênre læse be his ealdormannes gewitnesse. Earnian mid þâm scôs and glôfa him sylfum, and his mete-cû môt gân mid hlâfordes oxan. *R. S. P.*, 12.

[2] The *bovarii* were probably attendants upon the plough-oxen at work not at rest.

[3] Rogers, *Agric. and Prices*, II, 329–334.

[4] Et in oxenia est vaccarius qui custodit viii vaccas et vi vitellos, et vii vitellos et ii tauros. *L. N.*, 165.

[5] *L. N.*, 164–165.

[6] *Burton Chartulary*, 20.

seven days after calving, and the first milk of a milch cow for fourteen days after calving, milk always of an inferior quality.[1] In addition to this his heifer could be driven to the cow pasture with the lord's cows.[2] It is fair to presume that he had land if within a century and a quarter he is found with so large a holding as eight acres in one place, and two bovates in another.

Similar to the duties of the ox-herd and cow-herd, were those of the sheep-herd, *opilio*, who drove the flock to their pasture (heora læse) the 'scyp-hâm,' where he guarded them in heat and cold with dogs for fear of wolves. The sheep-hâm was a pasture distinct from that for the oxen and the mention of wolves in the Colloquy shows that they were still an object of dread, even though King Eadgar according to Henry of Huntington had driven them all out of England a half century before.[3] From the pasture the sheep-herd led the flock back to the fold, the sheep-shed (*ovilium*) upon the inland or near it.[4] Here he milked the ewes twice a day; he also moved whenever necessary the sheep-locks, which were made of transportable wooden hurdles, and made cheese and butter. In return he was allowed the manure of twelve nights, a fact which would indicate that the sheep-herd had land whereon to use it. He also received one lamb annually from

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[1] The word is 'bŷstinge,' and it has survived in one form or another in a great many dialects. In Wilts as 'boistins,' Akerman, *Wiltshire Gloss.*, 7. In the east as 'beezlins,' and 'beestins,' Nall, *East Coast Dialect*, 512. In East Anglia as 'beastlings,' Forby, *East Angl. Dialect*, I, 21. See Bosworth-Toller.

[2] Cû-hyrde gebyreð, þæt he hæbbe ealdre cû meolc VII niht, syððan heô nîge cealfoð hæfð, and frymetlinge bŷstinge XIV niht, and gâ his mete-cû mid hlâfordes cû. *R. S. P.*, 13.

[3] Aelfric's *Colloquy*. W.-W., I, 91.

[4] In the gloss, *caulae*=loca (locks) i. e. *munimenta ovium, sepimenta ovilium*, 'ewestre.' A manor house of the twelfth century had a sheep-shed (*ovilium*), a lamb-house (*domus agnorum*) and an ox-shed (*bovaria*), *Domes. St. Paul*, 129. The sheep-herd was also called *barcarius, bercarius* and the sheep-fold *barcaria*.

the year's increase and the fleece of a bell-wether after the shearing, a useful supply for his wife's spindle. It shows the tenacity of the local custom when we see the keeper of the wethers (*custos multonum*) receiving the 'belwetheresfles' in the manor of Brithwolton in Berks in the thirteenth century[1] as did the *pastor ovium* in the eleventh.[2] In addition the sheep-herd received the milk of the herd for seven nights after the equinox and a bowl of whey or butter-milk each night during the summer.[3] Such perquisites as these would show that the sheep-herd had a family and a holding of his own. In the Liber Niger a *bercarius* or byrcar is twice mentioned, once as holding a *bordellum*, a small cottage.[4] In the Boldon Book the *beruarius* held thirteen acres and paid ten shillings.[5] In the manor of Brithwolton, before mentioned, the keeper of the wethers enjoyed a reduction of two shillings, had the manure for twelve days at Christmas; pastured forty sheep with those of his lord; had a sheep-fold of his own, the 'belwethersfles,' certain provisions at Christmas and Easter, and an acre of broken land. There was also in addition a keeper of the ewes and the lord chose the herdsmen from the customary tenants if he so wished.[6] We can notice in the above a distinct increase in the importance of sheep-culture, an increase which is well known in the industrial history of England,

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[1] Et habebit unum vellus quod vocatur Belwetheresfles. In the *Rectitudines* it is called simply Bel-flŷs.

[2] For pictures of sheep-herds see the illustrations in *Pict. Hist.*, I, 279, from *Cotton. Nero. C.* 4, and Strutt., *Horda Angel-cynnan*, xxvii, fig. 1. Each herder carried a crook and horn, and wore a hood, cape and leggings. The sheep seem ready for the shearer.

[3] Sceap-hyrdes riht is, þæt he hæbbe twelf nihta þingan to Middan-wintra and I lamb of geâres geôgeðe and I bel-flŷs and his heorde meolc VII niht æfter emnihtes dæge, and blede fulle hwêges oððe sŷringe ealne sumor. *R. S. P.*, 14.

[4] Et est ibi i bercharius. *Liber Niger*, 158. Et i bercharius qui tenet bordellum. Ib., 162.

[5] Henricus beruarius xiij acras et redit 10sh. *Boldon Buke*, 28.

[6] *Cust. Battle*, 67.

In the days of the *Rectitudines* sheep were for home use only. This circumstance shows clearly the self-sufficiency and independence of the manorial life; weaving was done in the houses of the lord and his tenants by the women, and the product was consumed upon the manor itself. In keeping with the spread of the sheep culture, and the growing importance of the sheep-herd, was the gradual differentiation of employments, the introduction of weavers as a separate class of artisans, and the growth of a weavers' gild, about the beginning of the twelfth century. In the Domesday of St. Paul *textores* had become common among those with irregular holdings and special duties.[1] In the earlier time the sheep was used not merely for the fleece but for flesh and milk as well, and the latter was more commonly employed than was the milk of cows. Yet, after all, the fleece in all times has been the most important part, and that this was equally true among the Anglo-Saxons, the service of the tenants at Hysseburne shows, as does the law of king Ine, in the latter part of the seventh and beginning of the eighth century, from which we learn that the sheep were to be allowed to go with their fleece until Midsummer, so that a freeman could only shear from Midsummer until Shrove Tuesday.[2] This is supplemented by the statement that the fleece was valued at two pence, whereas the whole sheep was only worth a shilling.

Last among the herdsmen was the goat-herd, *caprarius*, who was probably least important of all. His duties, if commensurate with his perquisites, must have been light, for there is but little said about him, either in the *Rectitudines* or elsewhere. He was allowed the herd's milk after Martinmas, perhaps to the end of the year, and during the summer his share of the whey. Besides this he was given one kid from the flock's increase yearly, either for food or to add to his

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[1] *Domes. St. Paul*, 28, 30, 36, 42, etc.; *textrices*, 26. The same are to be found in *Cust. Battle*, 35, 37, 64. There is no mention of *textores* in *Domesday*.

[2] *Ine*, 69.

own stock of animals. These perquisites were, as in the case of nearly all the special workers, only given on condition of faithful service.[1] Goats are rarely mentioned in the laws, though there is occasional reference in the charters to their pastures,[2] and their value was the lowest of all the domestic animals which are named.[3] There is a *caprarium mediator* in Domesday, but in after times these animals were probably rarely kept, if we may judge from the silence of the records. Rogers mentions no goat-herd, indexes only one reference to goats, and says that goat's milk for cheese and butter was a rarity.[4] This would seem to show that goat raising was not a prominent industry at any time, and that the goat-herd was not a person of so much consideration as the ox-, cow-, sheep- or swine-herds. It seems permissable to conclude from analogy with the latter facts that the herdsmen, belonged to no single class, but might be chosen by the lord or gerêfa from any of those upon the estate, gebûras, cotsetlas, or slaves, and that there was no uniform rule governing such selection. This conclusion will at least make clear some contradictions. The presumption is however in favor of the gebûras in nearly every instance, and this would indicate that at this time they were the preponderating class.

Finally, before we leave this phase of the subject, a ray of light may be thrown to our advantage upon the holding and condition of the herdsmen from the story of Aelfred, told in the life of S. Neot. It was during that stormy period which preceded the era of ten years continuous fighting from

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[1] Gât-hyrde gebyreð his heorde meolc after Martinus mæsse-dæig, and êr þâm his dâel hwæges and I ticcen of geâres geôgoðe, gif he his heorde wel begŷmeð. *R. S. P.*, 15.

[2] Pastum porcorum et armentum seu caprorum. Birch, *C. S.*, I, 509.

[3] A horse XXX sh.; mare XX sh.; a winter stallion the same; wild cattle XII sh.; an ox XXX pence; cow XXIV pence; a swine VIII pence; a 'man' with a pound; a sheep I shilling; a goat II pence. *O. D.*, 7. Schmid, *Gesetze*, Anh., I.

[4] Rogers' *Agric. and Prices*, II, 569.

871 to 881, that Aelfred took refuge in the hut of a poor herdsmen, whom the first author calls a swine-herd (*pauperis subulci dominculam*), and Asser, a cow-herd (*vaccarius*) and a ceorl (*rusticus*). On the Sunday following the coming of the king, for of course the work of the herdsman was to be performed on that day as on the others, the herder, according to custom, led the flock to the usual pasture, leaving the king at home with his wife. Then the woman, forced by her need, built the fire and placed in the frying pan materials for a kind of bread called *liridas*, a word difficult of interpretation,[1] which formed the food of herself and her husband. After this, according to the custom among the lower classes, due to the fact that she had no assistant, and much other work to finish, she intrusted the watching to the king, since he seemed to have nothing else to do. The latter, preoccupied, let the bread burn, and received, in consequence, a severe berating for his carelessness. From this story we learn that the small hut, *dominicula*, of the herdsman, was not in the village among the houses of the gebûras, but at a distance, secluded; that the herdsman did not live alone, but near him were others of the same class, for in other accounts we are told that the woman supposed the king to be one of these companions of her husband.[2] This indication that the herders lived in little hamlets at some distance from the village, adjacent to the pastures, agrees with the Domesday mention of colonies of herdsmen, called 'herdwices,' herdwicks, of which an indication is also found in a charter

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[1] The editor of the *Vita* has this note on *liridas*. Mabilloni editio habet lyridas; sed tum unius alterius expressionis propriam significationem frustra quaesivi, etsi ex sensu satis appareat quamdiu panis aut frixae farinae speciem indicare. *Acta Sanctorum*, VII; *Mensis Julii*, 329.

[2] *Vita S. Neoti Confessoris, Acta Sanct.*, VII, *Men. Jul.*, Ch. IV, §§ 50, 51. Also in Asser's *Annales Rerum Gestarum Ælfredi Magni, M. H. B.*, 480. In the Anglo-Saxon version (*Anglia*, III, 104–114) the *domincula* is 'swanes huse' which stood 'geond heges and weges, geond wudes and feldes.' The place of the baking was the 'ofen' and that which the wife was preparing was 'hlafes,' loaves.

of the ninth century.[1] The tenants of the Welsh herdwicks were *dimidii villani*, half villeins. Morgan says that at the beginning of this century there were sheep farms called Herdwicks, on the borders of Cumberland and Lancashire, and that in one case the family of the chief shepherd had lived in this out of the way region for four hundred years.[2] That the same or similar conditions were to be found in the tenth century as well as the ninth and eleventh, a passage from Aelfric makes clear. Speaking of Cuthbert, the homilist pictures him faring abroad, preaching, until a storm compelled him to take refuge in some herdsman's cot which stood alone in the waste, over which he was traveling,[3] and in the Burton Chartulary, of the twelfth century there is an indication of the same or similar arrangement.[4] Cow-farms (*vaccaria*) were also located at a distance from the manor, and corrals for cows and oxen laid the foundation for new towns in England as in this country.[5]

Passing from the herders to the wards of wood and hedge we find that there is reason to think that they too had huts somewhere on the outskirts, for one perambulation mentions the 'setle' of a 'weard' as a boundary mark.[6] Of the woodward we are given the briefest possible account; one line of the *Rectitudines* says, "There belongeth to the woodward all

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[1] . . . . to ðem lande limpaŏ unamque salis coquinariam hoc est 1 sealternsteall and ðer cota tô in illa loco ubi nominatur herewîc. *C. D.*, 288. Earle, *L. C.*, 134.

[2] Morgan, *England under the Normans*, 79–80.

[3] sumes hyrdes cŷtan, þe stod weste on ðam westene ðe he oferferde Aelf., *Hom.*, II, 136.

[4] Et potest ibi Abbas in custodia eorum unam *herdewicam* de quantiscunque vaccis sibi placuerit; similiter autem et porcheriam unam sicut em. in conventione ipsorum. *Burton Chartulary*, 21.

[5] Herdwicks are found in *Domesday*, in Wales three (162), in Gloucestershire (166, 2), Northampton (229), Warwick (239), Lincoln (376 b, 2; 362 b), Buckingham (151, 2), Cambridge (191 b), *Vaccaria monachorum* (175, 2), in Yorkshire (317), in Berkshire (57; 59 b). We cannot be certain that the herdsmen lived continuously in a vaccary, though the proper buildings were there for temporary residence.

[6] On wearŏ setle of weard setle. Birch, *C. S.*, III, 66.

wind-felled trees."[1] This man was a guard or watchman who had supervision of the woods directly connected with the estate; for their value for hunting, building, repairing, furnishing fire-wood, hedge-material and swine-mast made the employment of such an individual necessary. In the tenth and eleventh centuries England was a much wooded country; great forests, dangerous to travellers because of wolves and thieving outlaws, were furrowed by occasional roads, almost impenetrable without a guide. Not only were there such vast stretches of woodland as the forest of the Weald in Sussex, the forests of Sherwood and Arden, the Effing and Hainault but the intermediate spaces were densely filled with a thick wooded growth.[2] Very different was the face of England, in these respects, from what it is now; with a sparse and scattered population, immense forests, and almost complete isolation. But with these forests the woodman had nothing to do. It is doubtful if he concerned himself at all with the woodlands of great size and extent, which stretched from one isolated estate and clearing to another, gradually growing smaller as new manors were formed and the demands of agriculture became more pressing, and wastes, essarts and purprestures took the place of trees and matted undergrowth. Domesday book is full of the careful record of the woods which were part of the manorial estates, but says nothing of the great forests. Such woods came to the lord by bôc, *cum campis cum silvis*, and they were carefully described as so many miles in length and breadth, or so many acres in content. The small woods, groves and coppices standing in meadow and pasture, forming boundary marks and mast-feeding grounds, are referred to as *nemores* and *silvae*, *nemisculae*, *silvulae* and *silvae minutae*, and returns of such are very frequent. In

[1] Wudu-wearde gebyreð ælc wind-fylled treów. *R. S. P.*, 19.

[2] Elton, *Origins of Engl. Hist.*, 107, 229; Green, *Making of England*, 11–12, 46, *passim*; Birch, *Domesday Book*, 238–239. Atkinson, *Forty Years in a Moorland Parish*, 408.

addition to these, or including them, were the deer and wild-beast enclosures, the forests, chaces, parks and warrens, where the king or the large landholders hunted, the latter, as the Calendar picture shows us, in September, when, with the harvest over, there was an opportunity for boar hunting.[1] Hedging this hunting park was, as we have seen, one of the duties of the ceorls. It is to these lesser woodlands that the duties of the wood-ward chiefly, and at first wholly, refer. Most of it was lord's land, but there were also portions especially set apart for the tenants, and probably in the woodland, as a whole, the ceorls had some rights; in Aelfred's laws we learn of common work in the wood, and there are found in the charters references to the common wood which the ceorls used,[2] also to two hides within the common woodland,[3] and once in the perambulations we find the ceorls' grove.[4] The passages in the laws regarding woods are of the nature of provisions against the burning and cutting down of trees, and undoubtedly the upholding of these laws was a part of the wood-ward's duties. Each estate would naturally have its own regulations in such matters, and not be dependent on the general laws of the kingdom except so far as concerned forestry and hunting. Because of the value of the wood for building and the making of farm utensils the wood-ward would see to it that no tree was burnt or cut down, although the penalty was the more severe in the former case, for the curious but quite logical reason that the axe was only an informant while the fire was a thief.[5] If the tree was a large one, and the

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[1] For a concrete example of a hunt, noting the share of the tenants, see the *caza magna* and 'rahunt' in *Boldon Buke.* The animals hunted were the roe, red deer and wolf. *B. B.*, 25, 26, 29. The same is indicated in *Burton Chart.*, 25.

[2] *Aelf.*, 13. *C. D.*, 299.

[3] *C. D.*, 1281. Kemble, *C. D.*, I, xli–xlii.

[4] Earle, *L. C.*, 292. Note the controversy regarding the mastland and woodland. *C. D.*, 1073. Earle, *L. C.*, 154.

[5] *Ine*, 43, 44.

standard of measurement was its capacity to cover thirty swine, this penalty was made greater.[1] According to the Forest Laws, which bear Cnut's name, but which unfortunately cannot be trusted,[2] every *liber homo*, thegn or ealdorman, was to have the right of hunting upon his own estate.[3] It was for this purpose, as aiding in the hunt, that the gebûras kept the greyhounds[4] for their lord, just as the thegns who held folcland, supported keepers and provided dogs for the king; indeed except for the fact that the estate which we are describing was held by bôc the two gebûras might have been maintaining the royal hounds.[5] In the same *Constitutiones de Foresta* it was forbidden to kill or even chase a stag or deer, and one was liable to severe penalties for killing roebucks, hares and conies; horses, bugalls and wild kine though in the forest were not of it in the technical sense. There was no law against the killing of wolves, foxes and wild boars, but it was forbidden to cut down, unless for the king's service, any tree which furnished food for the protected animals.[6] It is doubtful if such severe regulations were pre-Norman. The Anglo-Saxons were not great hunters[7] and the creation of forests and the making of hunting laws began more truly with

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[1] *Ib.*, 44.

[2] Schmid, *Einleitung*, lvi. Freeman, *N. C.*, V 456. Stubbs, *C. H.*, I, 220.

[3] *C. de F.*, 30. *Cnut, Sec.* 80. It was only the *liberalis* (= *liber homo*, thegn or ealdorman) who had Vert and Venison on his own estate. *C. de F.*, 12, 21, 30. The predial tenant, the villein, gebûr, was the *illiberalis* who suffered imprisonment if he slew a wild beast. 21, 25. The *illiberalis* seems to be confused with the *servus* in 21, but in 25 the distinction not destroyed by the jingle of words is carefully maintained. The *servus* who slew a wild beast was to lose his life.

[4] . . . . canes, quos Angli Greihounds appellant. *C. de F.*, 31.

[5] Earle, *L. C.*, lxxxiv.

[6] *C. de F.*, 27. Compare the replies of the hunter in Aelfric's *Colloquy*, and Wright's note thereto. W.-W., 92.

[7] Yet the presence of the royal deer-hedge, the thegn's deer-hedge, the keeping of the greyhounds, the picture illustrating the boar hunt, warrant us in concluding that hunting was a common and important Anglo-Saxon recreation.

the Norman kings.[1] On account of the doubt thrown upon the forest laws of Cnut, it is not easy to determine how much the wood-ward had to do with the protection of the hunting woods. If we may draw inferences from the post-Norman legislation, in this case not a very safe thing to do, we can gain some idea of the wood-ward's position, and we believe we are right in applying the less elaborate of these duties to Anglo-Saxon times. Every lord had the privilege of hunting in park and warren, while the king alone hunted in the forest and the greater lords in the chace. If the manor lay within the forest limits—and this may throw some light on the duty of hedging the king's deer park, a duty which belonged to the thegn and cotsetla—the wood-ward became a semi-royal officer and we may reasonably infer that the functions there performed were in a measure performed in the lord's private woods. He stood lowest in the scale of the officers of the forest and looked after not merely the wood but the verts or coverts, that is, the trees, underwood or brush which might cover or feed deer.[2] He protected the forest during the fawning season, which lasted from the fifteenth day before midsummer to the fifteenth day after;[3] he was to join the other officers in the drives or drifts,[4] and probably raised the hue and cry after forest offenders.[5] His staff of authority was a hatchet and he had sufficient police authority to arrest[6] offenders, for which he took an oath in later times.[7] In the Burton Chartulary

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[1] See the Introd. to *Pleas of the Forest*, Staffordshire Coll., V, Pt. I, 123-135. Wrottesly, the editor, accepts the forest laws of Cnut as promulgated by that monarch, and is inclined, in comparison, to apologize for the action of the Conqueror in regard to the New Forest and the forest regulations. His discussion is based on Manwood, *Forest Laws*, 1598.

[2] Manwood, fol. 6, b. Definition of Vert, fol. 33, b.

[3] *Ib.*, fol. 74, b. *Cf. Boldon Buke*, 28, Rogerus tenet XL acras apud Bradleiam, et reddit dimidiam marcam, et facit servitium forestae, scilicet, XL diebus in fonneson et XL diebus in ruyth.

[4] *Ib.*, fol. 88, b. [5] *Ib.*, fol. 125.

[6] Staff. Coll., *Pleas of the Forest*, 129.

[7] *Briefe Collection of the Laws of the Forest.* Manwood, fol. 50.

he is called *wardebois* and held one bovate of inland without a croft for which he paid twelve pence. In the Latin text 'wudu-weard' is rendered *custos nemoris vel forestarius* but it seems probable that in later times the two officers were quite distinct. The wood-ward is certainly to be distinguished from the royal foresters. Whether the *forestarius* mentioned in the Burton Chartulary and Custumals of Battle Abbey is the same as the royal officer or the old wood-ward it is hard to determine. It would hardly seem as if the terms were used interchangeably.[1]

The arable land of the estate was, as a rule, protected by hedges of dead thorns or quickset stakes, a constant source of toil for the tenantry. A special person was appointed, called 'hæig-wearde,' hedge-ward or haward, who was the protector of the common hedge which separated the arable from the pasture land, and of the other hedges which surrounded the parks, meadows and animal-enclosures. A part of these duties which concerned the inland fell upon the tenants as a whole as well as upon the haward who had to do chiefly with the ûtland. The latter work may have been, in a sense, supervisory; he probably watched the hedges, tested their strength, reported breaches or weak spots and generally saw to it that they were properly made. Probably his duties concerned, in part, both permanent and temporary hedging. Each permanent enclosure was, as the name implies, a tûn; the house and homestead, the smaller enclosures belonging to the homesteads

[1] In Wismera Edric equarius et *forestarius* 2 bov. pro iii s. In Brantistona *Wardebois* i bovatam de Inlanda sine crofta pro xii d. In the same manor a few years later Aschitillus *Wardebois* habet de Inland ii b. pro ii s. et pro servitio suo. In Stratona Edric *forestarius* ii b. pro iii s. in Herling. The officers are here quite distinct. B. C., 18, 20, 25, 26.

In *Cust. Battle* the wood-ward is *wodewardus*. He had charge of the lord's wood and swine and was allowed a reduction of 3 sh. 4 d. from his rent. As he also had charge of the swine he received four bushels of barley and food on three occasions and at Martinmas the entrails of one pig and fat for lard, 67. There is also mentioned a *forestarius* qui habet in custodia porcos domini, 81, 82.

occupied by the tenants, each of which was a tûn,[1] and the enclosed garden plots and animal-enclosures. It is more than a mere statement of general or occasional services that we find hedging so constantly referred to as part of the tenant's duties. It is mentioned as belonging to the regular work in spring, summer and autumn, and the reason is clear. The cultivated arable land, so long as the seed was in the ground and so long as the crop was unharvested, needed protection; the same was true of the meadows; the growing grass must be kept from the cattle, in the pasture, until it was cut and stacked. It is to this, as well as the arable, that Ine's law refers. The ceorls hedged their common acres and their 'gærs-tûn' yearly, and any failure on the part of those who had a share in the arable and meadow to do their hedging, rendered the work of all the others useless, and made it possible for the cattle to enter and feed on the growing grain or grass.[2] Such fences were but temporary, in part or entirely broken down in the fall to be reset in the spring, during the early part of which interval the cattle were let in on the stubble, and the fowls wandered over the cropped grain fields. The same was allowed in the spring, before the sowing of the bean or pea crop, after which the hedges were set up or, if not entirely taken away, were repaired or carefully guarded. This gives us an idea of the continuous nature of the haward's duties. It is impossible to determine how the hedges were constructed or the exact nature of the permanent as distinguished from the temporary hedges.[3] To the former the description of Fitz-

[1] Ceorles weorðig sceal beôn wintres and sumeres betŷned. *Ine*, 40. *Cf.* page 157, note 4.

[2] *Ine*, 42. The caption to this law as given in *B. MSS. Corpus Christi College* reads as follows: 'be þân þe ceorlas habbaþ land gemêne and gærstûnas.' Schmid, *Gesetze*, 40.

[3] The one possibly with high hedges and deep ditches, the other with a small ditch and a low hedge. This is a distinction given in the Assize of the Forest for enclosing wood and coverts, and arable and pasture, within the forest. Manwood, fol. 48a–49b. Yet it is equally probable that no ditches at all were used with the hedging.

herbert may apply,[1] though probably we must allow for a development in the science of hedge making.

As of all the other workers so of the haward an interest arises as to the holding of land which he had, for the wording in the *Rectitudines* shows that in some respects it was unique. In the first place he received land for his services, of this we are definitely told. The allotment was similar to that of the bydel and is expressed in the same terms, 'land-stycce' or 'land-sticces.' Such may well have been and probably were strips, situated in the open field, and may have been parts of a virgate or bovates. Whether so or not their location was definitely fixed not by the will of the lord or gerêfa but by folk-right, the immemorial custom of the people. They were so arranged that the strips lay on the outskirts of the open field next adjoining the pasture land, the 'eten-laese,'[2] which was probably the same as the 'gemænre læse,' to which the lord's oxen were driven by the herdsman and where they were feeding during the summer, liable at any time to break into the enclosed arable the 'gedâl-land.' The reason for such a location was that in case the haward neglected his duties, then the damage would fall on his own holding first. It was therefore for the interest of the haward to maintain a strict lookout.

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[1] Thou muste gette the stakes of the harte of oke for those be best; crabtre, blacke-thorne and ellore be good. Reed wethy is beste in marsshe ground; asshe, maple, hasel and white thorne wyl serve for a time. And set thy stakes within II. foote and a half together, excepte thou have very good edderynge, and longe, to bynde with. And if it be double eddered it is moche the better and gret strength to the hedge, and moche longer it will last. And lay thy small trouse or thornes, that thou hedgest withal, over thy quickset, that shepe do not eat the spring nor buddes of thy settes. Let thy stakes be well driven that the point take the hard erthe. And whan thou hast made thy hedge, and eddered it well, than take thy mall agayne and drive downe thy edderinges, and also thy stakes by and by. For with the wyndynge of the eddynges thou doost leuse thy stakes; and therfore they must nedes be driven newe, and hardened agayne and the better the stake wil be driven, whan he is wel bounden. Fitzherbert's *Husbandry*, 79.

[2] Compare 'ete-lond,' *C. D.*, 299; 'ecen-læse,' *C. D.*, 1134.

As a part of folk-right such a custom from the very necessities of the case was often a feature of the Anglo-Saxon policy.[1] The haward for his work seems to have received some other return than land but of its nature we are told nothing except that it would vary with the diligence with which he performed his work.[2] We find little mention of the haward in later times; yet there is no doubt of the continued existence of such an officer, though his duties, as was the case with the duties of so many of the others, changed considerably.[3]

We have now examined in brief all the legal rights and duties of those who lived outside of the manor court and its buildings, so far as the *Rectitudines* gives us an indication. It is probable that the chief duties of the slaves were performed within the manor itself or in its neighborhood, but as we have no more detail than has already been noted, we can hardly treat of these duties separately. There were, however, two classes of workers, whose tasks, certainly in the earliest times, were strictly performed within the manor buildings. These were the smiths and wrights, and the dairy woman, the

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[1] Earle calls attention to the application of a similar principle in a grant of folcland in 648, where Cenwealh gave to his relative Cuthred, 'iii þusendo londes be Aesces dune.' Earle's comment is as follows: "It seems clear that there was a military obligation attached to the grant; that this territory was the bastion of Wessex against the dreaded power of Mercia and that the corollary of Cuthred's possession was the defence of that border and a constant posture of vigilance against invasion." *L. C.*, lxxxiii. We have elsewhere called attention to a curiously similar application in the granting of land in a New England town. *River Towns of Connecticut*, 50.

[2] Hæig-werde gebyreð, þæt man his geswinces leân gecnâwe on þâm endum, þe tô eten-læse licgan, forþâm he mæig wênan, gyf he þæt êr forgŷmð, þæt him man hwilces land-sticces geann, þæt sceol beôn mid folc-rihte nŷhst eten-læse, forþâm gyf he for slâwðe his hlâfordes forgŷmð, ne bîð his âgnum wel geborgen, gif hit bîð þus funden; gif he þonne eal wel gefriðað, he healdan sceal, þonne bîð he gôdes leânes ful wel weorðe. *R. S. P.*, 20.

[3] The 'haward' must be kept distinct from the 'hayward' or *messor* mentioned in *Cust. Battle* and elsewhere, who watched the lord's grain, 67, 81. The same is described in the *Seneschaucie*. As 'hæig-weard' has become haward so 'hagaðorn' has become hawthorn.

former certainly, the latter probably, belonging to the servile class. The latter is the only woman mentioned on the estate, and in the *Rectitudines* her duties are confined to cheese-making; it is most probable, however, that in the majority of cases, there went with this office all other duties which are customarily associated with the dairy, although as Aelfric's Colloquy tells us the sheep-herd also made butter and cheese. The milk of cows and ewes was used, that of goats rarely. Of the former, ewes' milk was much more common than at present, for in the recipes when butter from cows' milk is referred to it is usually so distinguished. The customary milking time was morning and evening, but in May the animals were milked three times a day, because it was then that they were led out from their folds and turned into the pasture, a change always followed by a more plentiful supply of milk. The cheese-worker was not an *ancilla* properly so called, for the terms are later kept quite distinct; she might have been the wife of one of the theówas or esnes. The return for her labor would be useful to her either for household purposes, that is for her own consumption, or for sale, for she was allowed all the butter-milk [1] which was not given to the herdsmen. Her duty was the making of a hundred cheeses, which were much more diminutive than at present, and from the wring-whey, that which came from the last pressing of the cheese, she was to make butter for her lord's table, whenever needed. Naturally butter of this character was inferior in quality although it would seem to have been abundant in quantity. This was the case two centuries later when the dairy formed a separate building, under the charge of a 'daya' or dairy-woman, and such a servant was found on every manor.[2] At that time cheese-making began at Christmas and

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[1] Syringe = *raptura* = *lac serosum*; it may mean whey, curdled milk or butter-milk.

[2] Rogers, *Agric. and Prices*, I, 14, 402; II, 329–334. The 'daya' was usually a woman, but notice Walter (the) Daye.

ended at Michaelmas, though the making of butter continued all the year round. According to Walter of Henley,[1] two cows were equal to twenty ewes; the latter could be milked after August, and their milk was frequently mixed with that of cows. Cheeses were small, weighing only a few pounds, and were pressed in cloths. The essential parts of cheese-making, cheese-vats and salt, are found in the *Gerefa*, though there is no clear evidence of cheese-cloths. Butter was churned, and seems to have been kept in a liquid form,[2] which must have greatly injured its flavor.

Last of all upon the estate were the handicraftsmen, slaves on the inland with possibly an acre or so of land somewhere in the demesne. It clearly shows what a change has taken place in the self-dependent, secluded, agricultural unit which we have described when we see these artisans, workers in wood, leather and metal, who as a class were destined to become of such great moment in the economic history of the kingdom, at this time of purely secondary consideration, only employed to supply the immediate needs of the estate. In the larger centres the differentiation of handicrafts and the development of trade had begun to take place long before this, as early as the time of Aethelstan, but it was the crusading movement which did more than any other of that period to hasten commercial interchange and the demand for manufactured goods. But the isolation of the manor made the employment of any of its surplus, if it had any, for trade and exchange practically

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cŷs-wyrhtan gebyreð hundred cŷse, and þæt heô of wringh-wæge buteran macige tô hlâfordes bedde, and hæbbe hire þâ sŷringe ealle, butan þæs hyrdes dæle. *R. S. P.*, 16.

[1] *Walter of Henley*, 27.

[2] Rogers draws this conclusion from the measurement of butter by the gallon. If done in the thirteenth century it was probably done in the eleventh. It is possible that the following passage, from Aelfric, may support this view: An subdiacon bæd þone halgan wer sumne dæl eles to his bricum, forðan ðe hi ðicgað on ðam earde ele on heara bigleofum, swa swa we doð buteran. Aelfr. *Hom.*, II, 178.

impossible; the exchanges effected in the neighboring market were slight. The first object of the manor was its own support; every exertion, every stroke of labor had an agricultural end in view. The Colloquy of Aelfric, with which we have now become familiar, shows that among the Anglo-Saxons the first rank in worth and utility was given to agriculture and that there then existed as there has existed in all ages a sort of antagonism between the agricultural and the trading and manufacturing classes. So interesting are the passages attesting this that we may quote briefly from them. After the monk the first to be questioned was the ploughman, who was thus given prominence in the order of the different occupations. He says: "Oh! my lord, I labor much, I go out at daybreak, drive the oxen to the field and join them to the plough; there is not so fierce a winter that I should dare to lurk at home, for fear of my lord, but, yoking the oxen and fastening the ploughshare and coulter, all day must I plough a full acre. Assuredly I do more; I must fill the ox-bins with hay and water and bear out the hay and manure." After questioning the others the wise-man in answer to a question put to himself says, that in his opinion agriculture should hold prominence because the ploughman feeds them all. Upon this the smith says: "Where would the ploughman get his share or coulter or goad, the fisher his hook, the shoemaker his awl or the seamer his needle except for my craft?" "Very true," says the counsellor, "but the ploughman gives us food and drink. What do you give us in your smithy except iron fire-sparks and the noise of beating sledge-hammers and of blowing bellows?" At this point the wood-worker interrupts and says, "Who does not use my art when I work for you houses and many vessels (vats) and ships?" To which the smith replies: "Oh! wood-worker why do you say so when you would not be able to make one hole without my craft?"[1]

[1] W.-W., 90–103. As showing a similar expression of Aelfric's views it may be noted that in the Passio Machabeorum (*Lives of the Saints*, II, 120–122), he declares the three orders which are in the world to be *laboratores*,

The trend of sentiment is clearly in favor of the agriculturalist, in spite of the smith's protestations and Aelfric, while indicating the character of the life of the times, shows that there were physiocrats in the tenth as in the eighteenth centuries. It is clearly indicated in the *Gerefa* that the classes of craftsmen varied on the different estates. The author says, "And if he hath fine handiworkers, to them shall be furnished tools: the mill-ward, the shoe-maker, the lead-pourer (or plumber) and other workers. Let each know his own work, that which appertaineth to him, and there is no man who can tell all of the tools which they shall have."[1] This is a very incomplete list, and in some respects a peculiar one; the millard could hardly be called a fine handicraftsman, and the lead-pourer, as a separate artisan, so far as we can discover, is to be found nowhere else in Saxon literature. It may be inferred that the latter's duties, which were chiefly the making of lead dishes and kettles, and the construction of lead roofing, were in many instances performed by others, the carpenters or wrights. It must have been so, else there would be more frequent mention of him.[2] It is strange to find this single reference in a document where there are so many omissions. Aelfric, in his Colloquy, mentions a number of others, who must have been frequently found on all manors, such as the salter, the baker, the cook, the wood-worker (wright), and the iron-worker (smith). The duties of these need little explanation. The salter prepared, by means of evaporation, the salt which was used on meats and wyrts, and in the mak-

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oratores, bellatores; and the equivalent for *laborator* is 'yrðlincg,' the ploughman, who thus stands beside the soldier and the priest as making up the most useful orders in the state.

[1] And gif he smeawyrhtan hæfð, ðam he sceal to tolan fylstan. Mylewerde, sutere, leodgotan and oðran wyrhtan ælc weorc sylf wisað hwæt him to gebyreð; nis ænig man þæt atellan mæge ða tol ealle ðe man habban sceal. *Gerefa,* 16.

[2] This is clearly the case in the *Burton Chartulary.* ut faciat omnia opera ecclesiae quae pertinent ad officium suum et *de ligno et de plumbo.* 24.

ing of cheese and butter. The baker and the cook were not indispensable, according to Aelfric, though in the Colloquy, each claimed that he could not be passed by. The shoemaker was the worker in leather; he made not merely shoes, boots and slippers, but also flasks and bottles, reins and trappings, spur-leathers and halters, bags and purses of all kinds. The smith did all the iron work for the plough, the cart and the mill, and made fish-hooks, needles and awls; while the wright did all wood-work and occasionally fashioned utensils from other materials; besides the heavier work of house building, the making of tubs, buckets and vats came within his province.

That the greater part of these craftsmen were slaves cannot be doubted, and we may safely conclude, from the description of the tools and utensils, to be given later, that notwithstanding the failure of the author to specify them by name, all of these trades were pursued by the slaves and house servants upon the estate of the *Rectitudines*. Probably the millard, shoemaker, smith and wright were already recognized as distinct craftsmen, but all others, such as those who were engaged in spinning, weaving, netting, salt-preparing, gardening,[1] brewing, baking and cooking were, and for a considerable time continued to be, merely household servants. As such, they were of necessity slaves. The dignity of agriculture, as well as the constant labor which it demanded, so arranged the economy of the estate life that work of this nature largely fell upon those, whose services did not demand their constant attention in the field. Such of the household servants as showed special abilities would be employed as craftsmen, while the others would be utilized in the agricultural work. In a grant by William the Conqueror to Croyland abbey there is an oft quoted passage which relates to the grant of

[1] The *gardinarius* is occasionally mentioned in later chartularies. The Anglo-Saxon term is extremely picturesque, the 'leak-ward' or leek-ward. See Cockayne's *Leechdoms*, Glossary.

slaves with the land. The occupation of the slaves is given, and we learn of the transference of the gerêfa, smith, wright, millard, fisherman and nine others, presumably slave laborers on the demesne. Each of these fourteen slaves was transferred with his offspring,[1] his goods and cattle, *quae habet in dicta villa et in campis ejus et mariscis.*[2] This readily agrees with what the *Reclitudines* tells us of the land which a slave could have, with what we know of his power to earn money as well as with the fact which the *Gerefa* makes clear that tools were provided to the handicraftsmen; the first, the land, and the last, the tools, could, however, be taken away by the lord at any time. We also have, in this grant, another indication of the fact that the slave was judged in law as an animal, for his offspring are called by a term which, properly speaking, belongs to animals only. A few further indications of the servile condition of the handicraftsmen may be noted. Geatflead freed Ecceard, who was her smith;[3] Wynfleda freed her wright, also her weaving-woman, seamster and cook.[4] In Domesday, slaves are never mentioned as holding land, but there is some indication that they were handicraftsmen.[5] The evidence is however too slight for us to conclude that all such workmen were slaves, and we certainly see that they did not remain so. There is plenty of evidence in the Burton Chartulary that *praepositus, faber, aurifaber, molendarius, cocus, pistor, carpentarius* held land, and some of them seem to have

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[1] *Sequela*, sequels, a word used for the offspring of animals. Dicitur de pullis, equinis vitulinis aliis animalibus, quae matrem sequuntur. *Du Cange*, VI, p. 197. Vinógradoff gives a quotation from the Leigerbook of Kirkham Priory, Yorkshire, Fairfax MSS. 7, f. 8 a, as follows: Amensuratio pasture de Sexendale facta anno regni regis Henrici filii regis Johannis 36^to^ . . . . qui dicunt per sacramentum suum quod quelibet bouata terre in Sexendale potest sustinere duo grossa animalia, 30 oues cum *sequela* unius anni, duos porcos sine *sequela* et 3 aucas cum *sequela* dimidii anni, et non amplius. *Villainage*, 262, *Cf.* 300, note 1.

[2] *C. D.*, 795.

[3] *C. D.*, 925.

[4] *C. D.*, 1290.

[5] *Heywood on Ranks*, 374–376.

been *villani*,[1] while the *aurifaber* was a *censarius*.[2] Yet we cannot doubt that even with such holdings a number of these tenants were either *servi* or freedmen sitting on irregular holdings of inland. In the Hundred Rolls slaves were holders of yard-lands at a commutation and labor.[3]

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[1] Uhtebrand, *carpentarius*, held a house and 1½ acres for 12d.
Faber, i bovate for the work on three ploughs. 23.
Eilmurdus, *faber*, ii bovates. 19.
Ormus, *faber*, had a house and a croft. 19.
Godric, *carpentarius*, held one bovate for 2s. 20.
Edricus held the mill for iiii s. 21.
Godwin, *molendarius*, held 2 bovates for 5s. 23.
Aluric, *pistor*, held 2 bovates for 2s. 20.
i bovatam quam prius tenuit Wilhelmus *cocus* ad malam. 19.
Praeter haec habet Turoldus *carpentarius* molendinum pro xxx s. quoque anno et pro solidatis suis ut faciat omnia opera ecclesiae quae pertinent ad officium suum *et de ligno et de plumbo*. Hoc molendinum debet molere totum wintercorn de curia. 24.

[2] Censarii sunt Levingus *aurifaber*, etc. 29.

[3] Radulphus de Fencot tenet i virgatam terrae de praedicito Egiđ de Insula in villenagium pro v s. per annum et tallagium et operabitur ad voluntatem domini et redimet pueros suos.
This is under the caption *De Servis*; for other similar references see *Rot. Hund.*, II, 824–826.

CHAPTER V.

The Yearly Routine of Work.

In English economic history the condition of the laboring class has changed much more rapidly than has the character of the labor in which they have been engaged. Improvements in agricultural method have been slower than improvements in personal status and in consequence the same peculiarities which governed an estate in the thirteenth century were present on an Anglo-Saxon estate of the tenth and eleventh centuries. There was the same completeness of manorial life, the same economic independence and isolation, the same, or nearly the same, relation, existing between the lord and his tenantry and except in a few particulars the same system of land tenure, with the same absence in greater part of money in payment for labor done or obligation incurred. But between these dates we can see distinctly the germs of a change in all these particulars, a change which becomes more manifest about the beginning of the fourteenth century, that wonderful century in the history of the laboring classes. The great value of the *Rectitudines* and *Gerefa* is that they show us the estate in a condition of almost complete isolation, with but a rudimentary conception of the value of its resources as a source of supply for others; with money used very rarely and with payment in kind almost universal. But during the twelfth century hired laborers became more common; the sale of produce off the land became a regular practice; villeins freed themselves from their week-work by the payment of money; whole estates were let out to farm, of which we find such full mention in the Domes-

day of St. Paul; careful account books began to be kept by the baliffs, both of farmed estates and home estates, and thus step by step there can be traced the transition from the estate of the *Rectitudines*, which stands as the earliest detailed record of manorial management, through the gradual approximation on farms of the twelfth and thirteenth centuries to the modern system, with the landlord, free farmers and laborers, whose work is paid for, not commanded.[1]

But while these changes, fundamentally important in economic history, were taking place there was no such rapid advance in the system of agriculture employed. The steady routine of work which formed the life of the people on all estates would be of necessity, in most respects, the same in all times and places; for the seasons are such that, universally, certain classes of work must be accomplished at definite periods, autumn, winter, spring and summer demanding the performance of farm duties peculiar to those seasons. But while the general routine of work may be much the same, in matters of detail there would be great variation. A systematic and economic employment of rain and sunshine, soil and seed, and all the laws of nature for the attainment of the most complete results, an object which is everywhere sought for by the farmer, was far from successfully attained by the Anglo-Saxon. Of artificial aids in agriculture he knew little; marl, peat and animal manure were known but the system of fallows was wasteful and there was a total absence of those important roots and seeds which have almost revolutionized modern English farming. An unproductive year made hardship and famine inevitable and the Saxon Chronicle mentions many such.[2] The ignorance of all preserved foods except

[1] Cunningham, Introd. to *Walter of Henley*, ix-xviii. Ashley, *Economic History*, 40–49. Hale, Introd. to *Domesday of St. Paul*, xliii–lx. Rogers, *Agric. and Prices*, I, Ch. II; *Work and Wages*, I, II; *Economic Interpr. of Hist.*, I, II, III, VIII. Marshall, *Principles of Economics*, I, Ch. III. Vinogradoff, *Villainage*, 179–183, 304–307.

[2] *A. S. Chronicle* under years 793, 975, 976, 1005, 1039, 1043.

meats and the absence of vegetables in winter led to frequent sickness, while the lack of cleanliness and a knowledge of the proper remedies for the diseases of animals made epidemics common, so that we may conceive the mortality among cattle and sheep to have been very great.[1] The mention of a famine or epidemic in the Chronicle must presuppose a more frequent occurrence of the same upon private estates, although it is reasonable to conclude that, owing to the small percentage of population to be supported, the average of comfort in good seasons was fairly high.

The Anglo-Saxon year was very much like our own, though the arrangement of farm life was somewhat different and there was a constant dependence on the Church feasts and fasts and upon terms springing naturally out of the agricultural routine for the defining of the days and seasons. The year was divided into twelve months. The first or quarterly division was based on the movements of the sun and the four periods were separated by the winter and summer solstice and by the vernal and autumnal equinox. It was in the main the old German year as is seen from many of the names employed. Midsummer night, frequently used as a point of departure in determining given seasons, bisected the year, and each half year was in turn bisected by the vernal and autumnal equinox, while the winter solstice began and ended the calendar, though not the farming year. The division into months based on the lunar changes arose from the movements of the moon, which during each quarter, that is, during each period already formed by the sun's movements, passed through three complete sets of changes, forming three months or moon periods, making twelve months in all. The names given to these months show the simplicity, even bareness, of the life and thought of the Anglo-Saxons and remind us a little of the months of the French revolutionary calendar, where simplicity was the basis of all things. Foremost among the prominent seasons were the Yule 'tide,' the Christmas season, and the Midsummer

[1] *Ib.*, 897, 986.

'lîð.'[1] The months preceding or following either of these was called the month before Yule[2] and the month after Yule,[3] corresponding to our December and January; and the month before 'lîð'[4] and the month after,[5] corresponding to our June and July. January was also called the first month,[6] as beginning on the twenty-second of December, it opened the year. February in our reckoning corresponds to what has been usually interpreted to mean the month of the sun, but Skeat rightly objects to this, and declares it to mean the month of mud.[7] March, very appropriately, was the noisy, cruel or fierce month, and the name by which it was known lingered on in local usage for a considerable period.[8] April was the month

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[1] The names of the months are given in a *menologium* printed by Grein, Vol. II, 1–6; also by Earle, *Two Saxon Chronicles*, xxix–xxxv; by Cockayne, *Shrine*, 47. It is prefatory to the *Chronica Saxonica Abbingdoniae.*

[2] Se æerra Geôla. *Menolog.*, l. 225.

[3] Se æftera Geôla.

[4] Se æerra Lîða. *Menolog.*, l. 111.

[5] Se æftera Lîða.

[6] Forma monað, *Menolog.*, l. 9.

[7] "The old notion that in the name of February the o should be long, and that the word sôl would then mean sun, is absurd. February is usually not a sun month. Sol means simply mud or mire, whence E. sully." (Skeat, *Notes and Queries*, Apr. 20, 1889, p. 301). The term 'sol' was retained in the dialect of the common people in Wilts, who called February, Sowlegrove. "Soulgrove sil lew," February seldom warm. (*Anecdotes and Traditions*, Camd. Soc., 83).

[8] Skeat gives 'Hrêth monað' and quotes *Bosworth-Toller* to the effect that the name may be from a certain goddes Hreda. Bede, *De temporum ratione*, 13. But Skeat himself thinks that the meaning may be simply "fierce month." The *menologium* has 'hlŷda monað' l. 38. Leo gives 'hlŷda monað' and 'hrêðe monað.' *Rect.*, 209. Aelfric says, 'se eahteteoða dæg þæs monðes we hâtað Martius, ðone ge hatað Hlyda, wæs se forma dæg ðyssere worulde,' therefore Aelfric, following Bede, considered the fourth day after, that is the 21st, which is the vernal equinox, to be the proper beginning of the year. Aelf. *Hom.*, I, 100. The month of March was called Lide by the peasantry of Western England, in this century (Akerman, *Wiltsh. Gloss.*, 32), and the following rhyme was a common aphorism:

> Eat leeks in Lide and ramsins in May,
> And all the year after physicians may play.
> (*Anecd. and Tradit.*, cxlviii, 83).

Brand records the use of "Friday in Lide," that is the first Friday in March. *Antiquities*, I, 64.

of Easter,[1] and May the month of the three milkings; this, as has already been indicated in speaking of the dairy, was the month when the cows gave the best and most plentiful milk, and when they were milked three times a day.[2] The 'liða' for June and July was, says Skeat, merely the definite form of 'liðe,' mild, so that these months were the mild or warm months.[3] June was sometimes called the dry month,[4] and July the month of grass or meadow.[5] August was the month of weeds,[6] or possibly the month when the rye was gathered.[7] September was the harvest month,[8] and was likewise called the holy month because of the custom of sacrificing to idols in the heathen days. It seems also to have been the time of offering the first fruits of the harvest, and from the religious character of such offering, and from the religious customs which clustered about the harvest season, the month may well have been denominated 'holy.'[9] October was the month which began the winter season, or according to Skeat, the storm-felling month, when the leaves began to fall, and he compares the term used with the familiar 'fall,' the equivalent of autumn.[10] November was called the blood month, presum-

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[1] Easter monao. The Germans had 'ôstarmânoth,' and this form has survived in the name of their month for April, 'ostermonat.' *Menolog.*, l. 74.

[2] Ðri-mylce. *Menolog.*, l. 80. [3] *Notes and Queries, loc. cit.*

[4] Sear-monaþ. Leo, *Rect.*, 210. This name also survived in local dialects. "Gode to eat Briars in the sere month" (*Anec. and Trad.*, 83). Aubrey went astray in thinking that this word 'sere' was from *Sirius* the Dog Star.

[5] Mead monaþ. Leo, 211. [6] Weod monaþ, in *Menologium*, l. 41.

[7] 'Rugern,' in Wihtræd's laws, proem. Schmid conjectured that this was for Augernes, a corruption for August, though he thinks that it may have been a name for February, as in the *Cod. Dip.* Wihtræd and his Witan assembled in that month. Thorpe, however, thinks that it was another name for August.

[8] Hâlig monaþ, in *Menolog.*, l. 167.

[9] *Notes and Queries, loc. cit*; Frazer, *Golden Bough, passim.*

[10] Winter fylleþ. Skeat says that "the reason for the name October is left unexplained. As to a guess, I should refer *fylleth* to the verb *fyllan*, to fell, to cause to fall, and so explain *winter fylleth* by storm felling, *i. e.* the time of the year when a storm or colder weather causes the leaves to fall from the trees." *Notes and Queries, loc cit. Cf.* Leo, *Rect.*, 213–214. *Menolog.*, l. 188.

ably because the heathen Saxons at this season made provision for the winter and offered sacrifices of the animals they killed.[1] The days were called numerically the first, second, third, etc. In the documents the Church calendar days were generally used; Michaelmas, Yule-tide, the day on which Christ overcame the devil, Passion Week, Easter-tide, St. Peter's-tide, St. Paul's-tide, Martinmas and the Rogation and Ember days were among the most common. In the Menelogium the methods of reckoning was from a given point, counting on a certain number of days. The nativity of Christ was kept at Midwinter; eight days after came the Circumcision; five days from that Epiphany; four weeks from the Epiphany (saving two days) began the month of February; the next day was Purification; the fifth day after the beginning of Spring, etc.; thus determining the seasons by the aid of the Church calendar. But in the older calendar no month exactly coincided with the corresponding one of our year, for the first month began on the winter solstice, which falls on the twenty-first of December, so that throughout the year the month of the one system would overlap the corresponding month of the other by a few days. By the eleventh century, however, the old names had almost wholly gone out of use, and had been largely supplanted by the Roman names familiar to us; only very occasional insertions of the old Saxon forms are found. In the Menologium we have Januarius, Februarius, Martius, Aprilis, etc.; in the *Gerefa* Maius, Junius, Julius, Augustus, September, October, but for winter and spring, 'on wintra' and 'on længtene.' The years were frequently reckoned by winters, but the era Anno Domini was early introduced[2] and employed and they understood the use of the Indiction.[3]

[1] Blôt mônaŏ. *Menolog.*, l. 199.

[2] Kemble believed that this era was introduced by Augustine, and he was followed in this opinion by Thorpe. Earle, however, argues at some length and conclusively that it dates from Bede's time and was largely due to him. *L. C.*, xxviii–xxxiv.

[3] See Wihtræd's laws and charters, *passim*; also Earle, *L. C.*, xxxiv–xxxvi.

Before entering upon a discussion of the year's routine of work, a few words must be said about the *Gerefa* itself and the character of the information which it gives us. The document is a manual drawn up for the use of the gerêfa, as a general description of his duties. It is written from the point of view of the lord, the tûn and the demesne land, for the gerêfa was the lord's subordinate and agent. There was at this time no seneschal or baliff to stand between the lord and the gerêfa, bydel and brytta. The gerêfa was the sole controller of the manorial machinery, and a burdensome office it was as we shall see. But in the description before us, as in those of the later period, the manual concerns itself wholly with the labors upon the demesne land, and throws little or no light upon the manner in which the villeins cultivated the open field, the very point upon which, above all things, we should like information. It concerns itself with the buildings on the inland, and catalogues the scheme of work which the tenants were to follow, without giving any explanation of the method of performing these duties. The manual stands, however, as a worthy predecessor of the description by Walter of Henley, the works on "Hosebonderie" and the "Seneschaucie," the manual of Robert Groseteste, and the works of Fitzherbert and Tusser. And as there is, as we have so often said, a difference of but two centuries and a half between the *Gerefa* and the first four of these writers, it is far from improbable that many of the methods there detailed were similar to those employed on the Anglo-Saxon estate. We shall not, however, in the following discussion, insert anything not in the *Gerefa*, unless with proper explanation, and shall only make use of the later writers where they seem to throw light on the earlier custom.

The author of the *Gerefa* does not appear to be very systematic himself in the treatment of his subject for he plunges directly into the midst of the year's work, recounting what was to be done in summer rather than beginning after harvest, with the opening of the farming year. There is of course no

very direct evidence that Michaelmas was the time when new gebûras received their 'settene,' but we have seen that the gafol was paid at that time and it is probable that the seven acres allowed were sown with winter wheat. Furthermore Michaelmas, or putting it more loosely, the period after harvest, was the natural beginning of the farming year because of the three-field system and the sowing of the winter field. Positive knowledge of the custom can be traced to within 150 years of the *Rectitudines* and *Gerefa* and we can hardly doubt that the same practice was very much older.[1] The arrangement, however, as we certainly know of it applies mainly to rents and leases, and we may not be sure that that which was employed in the farm-system of the sixteenth century, when rents were always, even in Puritan New England, from Michaelmas to Michaelmas was also in vogue in Anglo-Saxon days, when there were no rents or leases. We believe however that it is extremely probable that it was so. Tusser begins his year in one place with August,[2] in another with September,[3] and says:

> "At Mihelmas lightly new farmer comes in,
> New husbandrie forceth him new to begin;
> Old farmer still taking the time to him given,
> Makes August to last until Mihelmas even."[4]

The first work of the winter was the ploughing of the wheat field and the sowing of wheat and rye, while the other two fields lay in stubble. We take it for granted that the three-field system existed, the order of work fits into it very satisfac-

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[1] In the Manor leases of the twelfth century the payment of dues either begins or ends with the feast of St. Michael. In a lease of the year 1152 the first year is defined thus: *id est a festo sancti Michaelis usque ad idem festum. Domes. St. Paul*, 128. This is not an isolated example, see 132, 134, 135.

[2] Tusser, *Five Hundred Points* (Engl. Dial. Soc.), 222.

[3] *Ib.*, 34. Compare *Walter of Henley*, 18. *Robert Groseteste* (in *Walter of Henley*), 144.

[4] *Ib.*, 34.

torily and it is almost certain that the two or three-field system existed from a very early Saxon period if not from the time of the settlement. Walter of Henley speaks of both as if there were no other system and Mr. Seebohm has practically proved its existence for the south of England, while Canon Taylor has shown the presence of the two and three-field shift in the north. The latter thinks that the two-field system was the more ancient because simpler.[1] The slight testimony of the *Gerefa* is unconclusive, although we are sure of the existence of either the one shift or the other because the document shows the presence of fallows. That it was the three field system we think the more probable because of our opinion that the manor of the *Rectitudines* was situated in southern or south-central England. With the completion of the ploughing of the wheat field—although the *Gerefa* says noth-

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[1] *Walter of Henley* says: "If your lands are divided in three, one part for winter seed, the other part for spring seed and the third part fallow then is a ploughland nine score acres. And if your lands are divided in two, as in many places, the one half sown with winter seed and spring seed, the other half fallow then shall a ploughland be eight score acres," 6–8.

Williams has called attention to the fact that upon the same estate more than one system could be adopted, in successive years. Speaking of the system of agriculture followed in the Cote common field he says: "At present it is the four-year course, wheat, beans, oats and fallow; but two centuries ago (*i. e.* in the middle of the 17th century) the three-years course was followed, with fallow every third year. . . . . At a still earlier period fallow every second year was not uncommon." At the time Mr. Williams wrote an enclosure was contemplated and afterwards completed so that Cote has made use of the two, three and four-field system (*Archæologia*, XXXIII, 278.)

See Nasse, 25–26; 52. Taylor, *Domes. Studies*, 144–145. Birch's objections in *Domesday Book*, 237, do not seem to be of much weight. Walter of Henley's positive testimony is too near the time of the *Rectitudines* for us to doubt the prevalence at that time of the three-field system, particularly after the testimony which Mr. Seebohm has brought forward, and the argument that the system of fallows could not be employed because of the difficulty of bringing land into cultivation is disproved at once by the words of the *Gerefa*, which shows that fallowing was an established custom with the Anglo-Saxons.

ing about the sowing of the winter wheat and rye—the preparations for winter were taken in hand, and we have a good picture of the outdoor and indoor activity. Next to the ploughing came the care of the demesne orchard or garden, of which there are very few traces in Anglo-Saxon literature. This need not signify orchard in our modern sense, for 'ortgeard' was the Latin *hortus*,[1] and meant any enclosure for plants and small fruits. It might be the vegetable garden merely, for 'ortgeard' had the same meaning as 'wyrtgeard.'[2] Probably by 'orceard rœran' we are to understand a general clearing up of this vegetable garden, which might contain radishes, onions, leeks, lettuce, carrots, parsnips, artichokes and asparagus. If fruits were included there might have been sweet apples and pears, though apple and pear trees are frequently mentioned in the perambulations, medlars, plums and cherries.[3] Next in order of duties was the splitting, in time of great frosts, of timber with wedge and beetel, such as had probably been brought in earlier in the season, in woodloads by the tenantry, together with the chopping of wood with the axe. This might have been stacked in wooden ricks, constructed for the special purpose, as on the estate at Hysseburne. The cattle which, with the close of the ploughing season, had been brought in from the pasture, were now carefully stalled in their own sheds or 'scypene,' and watched over during the winter by the ploughman, who filled the ox-bins with hay and water, and threw out the manure.[4] Such stalling and watching was necessary both for protection from the cold and as a safeguard against thieves, for the great value of cattle in those times made them especial objects of plunder in all predatory excursions. Early in the winter the

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[1] W.-W., 333, 24, 25; 550, 15.

[2] "'Ortgeard' and 'wyrtgeard' are mere variants, both signifying a yard of worts or vegetables." Skeat, *Etym. Dict.*, s. v. orchard.

[3] Cockayne, *Leechdoms*. Vol. II, preface p. ix, and Glossary, *passim*.

[4] W.-W., 91.

swine-herd began his labors, though doubtless most of the herd remained in the swine-pens in the woods during the winter and only the weaker animals and sows who had farrowed were kept in the pigstye on the manor.[1] But if there was little driving to be done there was the slaughtering, which formed no slight part of the winter's preparation of food. Salted meat was the only flesh used in winter, and with bread constituted the basis of the winter's provisioning. For the bread there were ovens, which among the old Germans stood within the house, behind the hall and near the living and eating room;[2] upon the Saxon estate they probably were separate, in the court of the manor, as was also the oast or malt-house. Both are called kilns[3] and this bit of information is valuable, inasmuch as there are almost no references in Saxon literature to bake-house or malt-house. In the leases of manors of the twelfth century both are spoken of as separate buildings.[4] In the early winter was the time for construction, which may mean nothing more than repairs upon them, in preparation for the feeding and feasting of the coming season. Chief among the winter duties was the threshing performed in the barn, and although it was to some extent carried on in the autumn, yet the bulk of it was finished during the winter. The scene in the Calendar picture for December is a threshing scene. Wheat, rye, barley, peas, beans and vetches were all threshed and next to ploughing it was the most important of the farm employments. The grain was bruised with flails similar to those now in use and it was winnowed by hand. There is a 'fann' mentioned in the *Gerefa*, which shows that fanning was employed by the Anglo-Saxon, and Tusser speaks of it in his day as existing only in the neighborhood of London, in Kent and Essex.[5] It is pos-

[1] Conjectured from *Seneschaucie*, 112–114.
[2] Henning, *Das Deutsche Haus*, 80. See figs. 48 and 49.
[3] *Gerefa*, 11. W.-W. cylne or aste = *siccatorium*, 185,30.
[4] *Domesday of St. Paul*, 132.
[5] Tusser, *Five Hundred Points*, 41.

sible that the sifting represented in the Calendar picture was of peas and beans, which were in later times carefully separated into three sizes. In the same illustration two men are wielding flails, one is winnowing or sifting and two are carrying upon their shoulders a basket of wicker work slung upon a pole. This basket may be the 'sester' already spoken of. A sixth man is standing by keeping tale of the number of baskets upon a notched stick. His object evidently was to prevent thieving and to see that the work was properly done as well as to keep tally.[1] Of these grains wheat and rye were the customary food of the people, while barley though sometimes mixed with wheat and used as food was generally employed in the manufacture of beer. The chief use of oats was for horses, but oat-meal was made to a large extent in the north and used in the house. Last of all in the section on winter-duties is mentioned the making of hen-roosts, and these need no explanation. Fowls were a part of the gebûr's gafol and therefore each must have had a few of his own while from the above we know that the lord had a separate flock. Whether these perches were in a separate hennery or whether the fowls roosted in the stall is unimportant. Hen-houses are common enough in the twelfth century.[2]

The winters were severe, perhaps not absolutely more severe than those of the present, yet because the people were not so well prepared to endure them they were relatively more so. The chroniclers often employ such terms as excessive, dreadful, unparalleled, in their descriptions, and a disciple of Bede

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[1] "And the provost must take care that no thresher or winnower shall take corn to carry it away in his bosom or in tunic or boots or pockets or sacks, or sacklets hidden near the grange." *Seneschaucie*, 98. Compare also the treatise on *Hosebonderie* (*in Walter of Henley*), 72.

[2] The winter duties in the *Gerefa*, 11, are as follows:

On wintra erian and in miclum gefyrstum timber cleofan, orceard ræran and mænige inweorc wyrcean, ðerhsan, wudu cleofan, hryðer anstyllan, swyn stigian, on odene cylne macian—ofn and aste and fela ðinga sceal to tune—ge eac henna hrost.

describing an eighth century winter says that it afflicted the land far and near because of its great colds, its frosts, its storms of rain and wind. Undoubtedly the insufficiency of protection, which their poor houses and rude appliances for comfort afforded would cause many an ordinary winter to seem to the Anglo-Saxons very inclement. The season began in November, though in times of unusual cold frost often came as early as the first of October and the season lasted sometimes until March. But such duration was exceptional, for February generally marked the beginning of the break-up of the winter, though even the shortest period was a serious time for the Anglo-Saxon land-owner, particularly if he kept many cattle, upon which cold and pestilence, bad housing and ignorance seem to have wrought great damage.[1]

But the winter over the main work of the year began early in February with the spring ploughing upon the second field, in preparation for the spring sowing of peas, beans and vetches or oats and barley. This period for the opening of the ploughing season was almost universal. The Scotch peasantry began their ploughing fifteen days before Candlemas[2] and Fitzherbert instructs his readers to begin their ploughing early in the year after the feast of the Epiphany.[3] This ploughing was probably the week-work of the gebûr, which lasted from Candlemas to Easter, and it was performed on the old wheat-stubble, which since the shearing of the rye and wheat in the July and August previous had been the home of hens, chickens, sheep and other animals. The *Gerefa* speaks only of the sowing of beans, which were scattered often directly after the plough, and sometimes before the fur-

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[1] If Marshall's statement is to be accepted that a wide prevalence of wet lands and bad drainage influences temperature then England must have had a colder climate than at present.

[2] Skene, *Celtic Scotland*, III, 244 (date 1214.)

[3] Fitzherbert, *Husbandry*, 17. The first Monday after the Epiphany was commonly called plough-Monday.

row was turned. The *Rectitudines* mentions only beans and corn in the messing of the women. Evidently no manure was spread at this time, for the droppings of the animals on the stubble would be useful to that end. Work began for the ploughman at day-break, when he took the oxen from the cow-herd, yoked them and joined them to the plough. The ox-yoke was much like that in use at the present time, a semi-ellipse of bent wood, with the ends joined by a bar, which was either tied or keyed. The plough as it is pictured and described[1] was of a comparatively high order, composed of beam, tail, share, coulter and wheel; the latter though clumsy and of the shape of a cart-wheel shows an advanced stage of development. It was more than a disc of wood bored for an axle, it had felloe, spokes and hub. Cynewulf's description though picturesque adds little save the one important fact that the seed was cast immediately after the furrow was turned.[2] He omits mention of the wheel and it is not improbable that we are to see the influence of Roman civiliza-

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[1] Elton, *Origins of Engl. Hist.*, 116; Wright, *Celt, Roman and Saxon*, 256; Rau, *Gesch. des Pfluges, passim.* Compare the illustration of a Shetland one-stilted plough in Mitchell, *Past in Present*, 95.

[2] Cynewulf's description does not appear to be based on any Latin model but to be wholly his own. Prehn, *Rätsel*, 272. The omission of the wheel is therefore significant and, as Pliny tells us that in Rhaetian Gaul two wheels were used, it is possible that the wheel especially was copied from the Roman plough. (*Nat. Hist.*, xviii, 18, (48)). We will venture a translation of Cynewulf's *Riddle* with the aid of Grein, *Dichtungen der Angelsachsen*, 218. "My face looks downward to the ground; with head downward I fare as the youth (plough boy?) directs me, the hoar enemy of the wood, and my master goes bent as a watchman at my tail; he presses me on to the field, moves me forward and pushes me and sows upon my track. I myself hurry forth brought from a tree, craftfully wrought, borne on a wain, having many wonders. To me as I go forward green is the path on the one side and my visible track is black on the other. Under me there hangs driven through my back an artistic dart ('pil'= coulter); another at my head fast-bound and moving forward falls on the side, so that I tear with my teeth if he who guards behind and who is my lord serves me rightly. *Riddle* 22.

tion in the wheel which the Calendar shows us. It can hardly be doubted that ploughs of a much inferior type, similar to the primitive varieties, which Rau gives in his history of the plough, were used at this time on many an English agricultural estate. That represented in Harleian MSS. 603 has only share and tail of the simplest possible character. The irons of the plough were made by the smith and the wood-work by the wright. The smith in the Colloquy declares that the ploughman was indebted to him for the plough-share, coulter and goad and we know well the character of the smithy, where these were made, with its anvil, hammers and sledges, fire-sparks and bellows. As has already been said we have no indication in the *Gerefa* as to the method of villein ploughing. The researches of Seebohm have raised a strong presumption in favor of coöperative ploughing with four yokes or eight oxen, which represented a hide of land, allowing a yoke to represent the virgate, the normal holding of the gebûr. One may wonder that none of the illustrations give this normal team, if such was the customary outfit for villein ploughing. In very clayey or gravelly soil ten and twelve oxen were used aided by horses. The oxen pictured in the Calendar are small with short horns and high fore-feet, resembling, says Leo,[1] certain oxen in Wurtemburg. Four are the number represented, in two yokes, not abreast but the one yoke before the other; these are urged on by a plough boy with a goad tipped with iron and with a generous use of lung-power, for the boy in the Colloquy had become quite hoarse with cold and shouting. The holder of the two handles and the guider of the plough was the 'yrðling' and Aelfric in narrating the sorrows which came upon Job represents the Sabines

[1] Leo, *Rect.*, 209. This was characteristic of all primitive oxen. Tacitus noted the same among the Germans, § 5, and the causes seem to have been the lack of care in feeding and protecting them, the inclemency of the climate, the bad housing, poor food and, chief of all, the absence of any knowledge of cross breeding.

as falling upon the ploughing oxen in the field and slaying the 'yrðlingas,' while escaping 'yrðlingas' hasten to their lord to tell him of their misfortunes.[1]

As the *Gerefa* mainly concerns itself with the work on the inland we may expect that a large number of the spring duties would have to do with the enclosures about the lord's house, the tûn in the oldest sense of the word; each enclosure was a tûn, as was the mansion, with its environs, the original tûn. The garden or wyrtûn[2] was probably spaded, if we can trust the Calendar picture for February, and planted early in the spring with herbs or vegetables. At the same time the vineyard, which was also a tûn,[3] was set out. The presence of the vineyard is strong evidence in favor of a southern location for the manor, for in Domesday the thirty-eight examples noted are in the south-central part of the kingdom. The vine clearly betokens a continental origin as does the use of the arpent for acre as the unit of measure. Ellis thinks that the vine may have been introduced by the Romans in the latter period of their rule.[4] After the vineyard had been set out, and before any further planting or sowing was undertaken, ditches were dug or opened, and the deer-hedge, perhaps that of the king as well as that of the lord, was hewn and set up. This probably did not include the enclosing of the arable and meadow, for that work was done mainly during the summer months, when the sown crops would begin to need attention, and when the dangers were the greater from intruding cattle. In May and June were the temporary hedges put up, which surrounded

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[1] Aelfric, *Hom.*, II, 450, *Cf. Lives of the Saints*, II, 22, 202, 'yrðlingas' for husbandmen is Aelfric's favorite expression.

[2] Sum þegen hatte naboð, se hæfde ænne win-eard wið ðæs cyninges botl. þa cwæð se cyninc him to, syle me ðinne wineard me to wyrtune. Aelfric, *Sermones* (Early Eng. Text Soc., 77), 394. *Cf. A. S. Gospels, Luke*, XIII, 19.

[3] Se plantode win-geard and betynde him. *A. S. Gospel, Matt.*, XXI, 33.

[4] Ellis, *Intr. to Domesd.*, I, 116 ff. The localities given in Domesday are Hereford, Ledbury, Gloucester, Tewkesbury, and Worcester.

portions of the arable, from the sowing season until after harvest, and the meadows until haying was done. The permanent hedges, damaged by the winter storms, would be put in repair and cleaned from the debris which freshets would cause to accumulate; the temporary hedges would be rebuilt. When these duties were completed, if the weather was favorable, madder was set out, perhaps in the wyrtûn, and flax was sown in the 'flax-hammas,' the enclosures for this special cultivation. At the same time woad-seed was sown, possibly in its own enclosure or the wyrtûn. Other plants and herbs were also started, including vegetables and wyrts for medicinal use. The Anglo-Saxon 'wyrt,' as a generic term for trees and plants, included not only herbs as we understand them, but flowers and vegetables, shrubs and trees, and their importance in Saxon leechery is well attested.[1] Madder and woad formed an important dyeing material, and were much coveted, and though woad is now largely superseded by indigo it remained for a long time an important article of cultivation.[2] With the planting of wyrts the schedule of spring duties closes, but the conscientious author does not fail to warn his reader that there are many other things which the good 'scîrman' shall procure.[3]

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[1] Again we refer for all information on these subjects to Cockayne's *Leechdoms*, vol. III. The medicinal wyrts were cultivated in special beds prepared for the purpose, like our kitchen gardens, and they were also largely found in meadows, fields, dykes, reed-beds, damp and watery places, sandy lands and old barrows. In Cockayne's glossary we note the following, an incomplete but representative list: Dandelion, bonewort, henbane, bishopsweed, wild thyme, pimpernel, pennyroyal, water-cress, celandine, cummin, elecampane, tansy, horehound and cicely. Another list, partly inclusive, may be found in Cockayne, II, Intr. xii, where there is also given a list of foreign drugs used by the Saxons.

[2] Woad has had a long and honorable history. It was used in very early times, by the British tribes, to dye themselves (Elton, *Origins*, 235), and we find both woad-seed and madder-root and seed mentioned in the list of commodities to be sent to New England by the Massachusetts Bay Company. *Worcest. Antiquary*, III, 7.

[3] The spring duties given in the *Gerefa*, 12, are as follows:

Nothing is said about the sowing of oats and barley which followed the sowing of beans and peas in the usual arrangement, but the first task in the schedule of work for May, June and July is the summer fallow. This fallow which was for wheat and rye are according to Fitzherbert prepared in April[1] and in June came the first stirring. Probably there was no fixed time as Fitzherbert's rule is only a recommendation, so that the preparation of the third field may have begun in May as the *Gerefa* says; whether it was treated to the first stirring it is impossible to say although the phrase 'on sumera fealgian' may well include it. This statement is followed by the direction to draw out manure, which was always put on the fallow and the barley ground, thus manuring each field once every two years. These are the months for weeding the world over and there is no reason to suppose that weeds were any less troublesome then than in Fitzherbert's time when they certainly were a great nuisance, and that author gives a full account of all their peculiarities.[2] Chief of all was the thistle doing infinite harm as Mr. Seebohm has suggested,[3] but there were also dock, fennel, darnel, nettles, burdock, goose-grass, chickweed and sorrel to trouble the cultivator.[4] In addition to weeding the latter part of June and July were times for washing and shearing sheep, because it was forbidden to shear sheep before midsummer. This industry was pursued on the estate of the *Rectitudines* as it was on all Saxon estates, though it does not play a part sufficiently absorbing to be included among the gebûr's stated duties as was the case at Hysseburne. Besides sheep-shearing much building was done during these months; trees were felled in the wood and the timber

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on længtene eregian and impian, beana sawan, wingeard settan, dician, deorhege heawan and raðe æfter ðam, gif hit mot gewiderian, mederan settan, linsed sawan, wadsæd eac swa, wyrtun plantian and fela ðinga ic eal geteallan ne mæig, þat god scirman bycgan sceal.

[1] Fitzherbert, 25, 32.

[2] Fitzherbert, 29.

[3] *V. C.*, 15.

[4] Cockayne, *Leechdoms*, Glossary.

was loaded on two-wheeled carts drawn by oxen[1] and horses as well, for the latter were used to a large extent for draught work, and a special perquisite of one stick for every load seems to have been given to the laborer who loaded and led the wagon at the time of the wood lading.[2] The wood, in part piled near the manor house, was cloven, chopped and split, a service included in the 'inweorc' of the early winter; in part turned over to the wright or carpenter to be used in general construction and the making of tools. Timbering, the erection of 'stoc-' or log-houses, 'botl'-building, as well as a general repairing of all the structures of the manor[3] was summer work; also hedging, the temporary hedging of Ine, 42, the setting up of folds and pens which were made of wooden hurdles, and the construction of fish-weirs. The mention of 'fiscwer' seems to point to the location of the estate upon a river of some size. Last of all during these months was the gerêfa to attend to the erection of a mill. Like the manor house and the church the mill formed a necessary part of every estate, whether there was running water or not.[4] The presence of a stream was of course an essential but not an indispensable element, for the value of the mill did not always depend on the size of the brook beside which it stood nor on the strength and swiftness of the current which turned its wheel. Ellis notes a mill in Domesday book whose course was dry in summer and therefore useful only

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[1] Calendar illustrations, and *C. D.*, 977, where the gebûras at Hysseburne drew, chopped and stacked wood as part of their gafol.

[2] *R. S. P.*, 21.

[3] 'bote-atan.' Napier would read 'botettan,' to make repairs. *Modern Language Notes*, 1889, 277–278.

[4] Notice the *formulae* used.

On cyrcan and on mylan, on wuda and on feldan, on læse and on haðe, on mædum and on êitum, on wæterum and on werum. Earle, *L. C.*, 302.

Mid kirkan and mid milnen, mid wode and mid felde, mid lase and mid laðe, mid mæden and mid eyten, mid wateren and mid weren. Earle, *L. C.*, 340.

during the winter season. In that work there is a very careful account of the mills although only five *molinarii* are recorded.[1] On these estates where there was not sufficient water power, wind and horse-mills were in a few instances made use of. Of the latter we have no clear indication before the twelfth century.[2] There are very frequent references to the presence of mills in the charters, such as the mention of the mill-path, mill-brook, mill-way, etc. It is probable however that originally the mill was for the corn grown only on the demesne land and that the gebûras and cotsetlas used, as did also the lord himself, hand-mills or querns. The former were attended by men only, the latter by either men or women as Cynewulf's riddle shows[3] and the grinding woman is men-

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[1] It is always interesting to watch the struggle between the Latin and the English forms. We know the tenacity of the latter, particularly if of a humble origin, from the presence of the words in the dialects. In this case the form in the *Gerefa* mill-ward was shortened to millard and we find it in use in Wilts in this century. Akerman, *Wilts. Gloss*, 35. It is of course a well known proper name. It may also be noticed in this connection, that 'neat' is rarely found in the later records, 'buri' almost as rarely, both are supplanted by *villanus*. In the same way 'erdling' or 'yardling' struggles with *virgatarius*. 'Cotsetla,' however, which in the later records always stands in contrast with 'neat,' is retained in the same or similar form. Vinogradoff, *Villainage*, 144–149.

[2] *Molendinum equorum, Boldon Buke*, 17. The wind-mill is called *molendinum ventricum*.

[3] Cynewulf's riddle is as follows: "In continuous course must I obey my servant, fettered as I am with iron rings; break up my bed and noisily announce that my master has given me a neck band. Oft a man or a maid has happened to call me weary with sleep and I give a winter-cold answer to these evil-spirited people. Sometimes a warm limb may break the bound fetter; this however is due to my servant, that moderately wise man who is like myself so far as he knows anything and can by words convey my constructing message." We here accept Grein's translation almost without change but of the last two lines can make no meaning. The iron-work of the mill is interesting, as is also the harsh grating sound with which it moves when started in the early morning. These features Cynewulf has added to the original of Symphosius. Prehn, *Rätsel*, 163–165, *Riddle* 5.

tioned as early as the time of the Aethelbirht.[1] In process of time however it was for the interest of the lord to prevent the tenants from grinding elsewhere than at the mill of the manor, and efforts, generally successful, were made to suppress the hand mills. This seems to be the nature of the contest which the abbot of Peterborough had with his tenantry, in 1284, in attempting to put down the use of *manuales molae*, which certain of them used to the injury of the profits from the common mill.[2] At first the miller was merely the lord's slave, and the lord received all the profit, but later the mill was let out to farm, and we find great variation in the values.[3] With the summer work finished,[4] that of the harvest season, August, September and October, began. There is no mention of a second stirring of the fallow, and it may be that at this time such had not

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[1] Gif hiô grindende þeôwa sîo, xxv scillinga gebête. *Aeth.* 11. For a description of querns see Mitchell, *Past in Present*, 33–39. Querns were in use among the early Britons. Elton, *Origins*, 145. A "qwern" is found in the inventory of Margaret Baxter in Bury in the beginning of the 16th cent. *Bury Wills and Inventories* (Camd. Soc.), 119. The *pistor* is found however in the *Burton Chartulary*, 20.

[2] *Chron. Petr.*, 67–68.

[3] Jones, in *Wilts. Domes.*, xliii–xliv, says that in that county, the average rental was from five to fifteen shillings, but that it varied from thirty pence to thirty shillings.

[4] The summer work was as follows, *Gerefa*, 9.

Me mæig in Maio and Junio and Julio on sumera fealgian, myxendincgan ût dragan, lochyrdla tilian, sceap scyran, bytlian, bote atan [botettan?], tynan, tymbrian, wudian, weodian, faldian, fiscwer and mylne macian.

It is interesting to compare this with the order in Fitzherbert.

In May, June and July one is to fallow, to carry out dung, to set up the sheep-locks.	And in May when thou hast falowed the grounde and set oute thy shepe folde and caryed oute thy dunge or mucke, if thou have any
to build; to do timber work, and to cut wood.	wodde, cole or tymbre to carry . . . then is the tyme to do it. 29.
to weed.	In the later ende of Maye and beginninge of June is the time to wede thy corne. 29.
to shear sheep.	In June is tyme to shere shepe. 49

become a custom. Its omission however makes it difficult to find out where the gebûr ploughed his acre a week, from Candlemas to Martinmas. Even if we accept the interpretation that all the gebûras together were to provide for the ploughing of one acre a week, it is not easy to determine, unless we suppose a second stirring to have been given, where such continuous ploughing was done. If however there were no second stirring, then from the ploughing in June to the final ploughing in late autumn, the fallow was not disturbed but was given over to the full possession of the weeds. This was the great harvesting season of the year and reaping and mowing now became the work of the day. All the crops were either shorn, reaped or mown according to custom. Mowing was done with scythes, which were whetted, as now, with a hard, fine-grained stone, a 'hwetstan.' The date for the mowing is late, for if grass is meant then it should be cut at the end of June and in July. But barley, oats, pease and beans were also mowed and if these are meant then the order is true for the harvest which began at the end of July was introduced, as the author says, with the reaping of rye or wheat, which were cut high with sickles, leaving the straw to be mown later.[1] The corn was bound in sheaves and carried to the cart, in which a laborer stood, who received the sheaf on a two-pronged fork and stowed it away. The form and construction of the cart are interesting. It is primitive but no more so than many a two-wheeled cart of a century ago. The spokes and felloes of the wheels are large and heavy, and instead of a box two side frames filled in with wattle-work hold in the sheaves. Upon the left on rising ground stands a piper or horn blower, who seems to be inspiring the reapers with merry tunes. There may be a deeper meaning however in the presence of the horn blower. We may advance a suggestion taken from

[1] Calendar illustration. Strutt supposes that the illuminator, who gives this picture for June, has mistaken his month. Leo accepts this without comment. *Rect.*, 211.

the Welsh laws. Lewis says: "Co-tillage was a duty to be rendered on requisition. But the ingathering of corn was only a horn-mote, every one was at liberty to cut and carry his corn without impediment, whilst no one was bound to join in the harvest work."[1]. The former explanation of the piper seems trivial; we confess to feeling that his presence in the Calendar picture and the horn-mote of the Welsh custom are more than mere coincidences. May not each look to a similar origin and represent similar tribal customs? The corn, before threshing was stowed away, in part at least, in corn-ricks.[2] In addition to the mowing and reaping, woad was spitted and all other harvested things carried to the hâm and stowed away, at this season, for the winter. Further than this there was a general setting in order upon the estate, a repairing and clearing up in the manor enclosure. Whether anything was done to the dwellings of the gebûras and cotsetlas the author does not state, his whole inquiry relates to the lord's outbuildings. All necessary repairs were completed upon the houses; farm buildings and folds were looked after, and general internal renovation took place in the stalls and sheds of the domestic animals. In order to appreciate rightly their customs, we must dispossess our minds of any high conception of Anglo-Saxon habits, based on modern ideas of social life. Order and cleanliness were usually found in the houses of nobles and kings, but in small degree among the workers on a predial estate. The author of the *Gerefa* several times insists that care be taken that the house and farm be kept in good condition. If we may judge at all by reflection from their superstitious practices, the dependent classes were degraded and ignorant to a striking degree, and of such degradation and ignorance, uncleanliness is usually a concomitant quality. The first of these specific duties was that of thatching, in which reeds, sedge, and wheat

[1] Lewis, *Anc. Laws of Wales*, 127; *Anc. Laws*, 631-632; *Triads*, 6, 16.
[2] Aelfric, *Hom.*, II, 178.

stubble were used. All the village huts were thus treated, 'botl' and 'cots,' all the buildings forming the quadrangle of the enclosure, and probably, in very many instances, the manor-house itself, although the better of these seem to have been built, in part at least, of stone and brick, and to have been roofed with tiles, shingles or lead. The last named may have been employed on the mansion of the *Rectitudines*, an inference drawn from the presence of the lead-pourer in the *Gerefa*. The extensiveness of this work is attested by the use of three words in the text having about the same meaning: 'ðacian,' which may refer to thatching in general; 'ðecgan,' to the temporary roofing for pens or ricks, and 'hlosan,' which is closely related to the idea of inclosure, and refers to the stalls, as its position following 'scipene behweorfan' shows. All this, together with the cleaning of the folds and the taking out of the dung from the ox-stalls, was the good gerêfa to attend to before the storm and winter came too roughly upon the tûn.[1]

Still further contracting his view the author sums up his account of the season's work by noting a few duties which occur to him in the house and court and garden, 'byrig' he calls it, probably referring to the fortified character of the enclosure. This meaning of 'byrig' is more acceptable and more in accord with the spirit of the description than would be the translation, 'berry' an enclosure for small fruits.[2] Cer-

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[1] The schedule of duties for autumn is as follows: *Gerefa*, 10.

On hærfeste ripan, in Augusto and Septembri and Octobri mawan, wad spittan, fela tilða ham gæderian, ðacian, ðecgan and fald weoxian, scipene behweorfan and hlosan eac swa, ær to tune to stið winter cume and eac yrðe georne forðian.

[2] Liebermann from philological reasons has accepted the translation of mulberry enclosure for 'byrig.' He refers to Cockayne, II, 372, who says that mulberry tree (*Ps.* lxxviii, 47) is translated by 'byrig' and 'marbeames.' Had he looked further he would have found Lye mentioning 'berig-dring,' a drink made from mulberries. This reasoning does not appear strong however and Zupitza has consequently suggested that 'byrig' means 'gehöft.' This we have accepted; the only objection to which is

tainly would it be true that the gerêfa need not be idle when looking after the general affairs of the farmstead, while such assiduous attention to the fruit-berry does not accord so well with the needs of the tûn, particularly as we have no other indication of the existence of such an enclosure. Then too the account which follows seems to be clearly an expansion of the first statement giving in greater detail the duties incumbent upon the gerêfa in the 'byrig.' According to this list the gerêfa was to keep the house in good condition, to righten it, that is to set it in order and to keep it clean; to look after and hedge the 'grep,' the warren, the coney-burrow or coney-garth,[1] and to repair all breaches in the ditches and the hedge which surrounded the enclosure. From the warren the author turns to the garden; or it may be that he has in mind the farmstead as a whole, when he bids the gerêfa see that all weeds are pulled up by the roots, doubtless referring to the larger weeds, such as dock, nettle, burdock, etc., which must be destroyed before the ripened seed should have the opportunity to scatter itself. Such could be done only in the immediate neighborhood of the mansion, and 'weod wyrtwalian' must mean more than simply to weed, for weeding, in general, is mentioned as a part of the summer duties. There is the meaning of root and stock contained in the phrase, referring to the single weed, not all collectively.[2] Next the gerêfa was to see that the wright constructed tables and benches, for use

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that 'burh' not 'byrig' is used in the *Rectitudines*. But the sequence of ideas almost demands that 'byrig' have the meaning 'gehöft' and this form is not unfrequently found for 'burh.' Accepting this translation the whole passage seems clear, for what follows evidently refers to the lord's house and the quadrangle surrounding it.

[1] Grep = *cuniculum*, W.-W., 216.16; 371.31; 498.35; 501.30.

[2] 'Wyrtwala,' in the perambulations, means a continuous line of tree roots or stumps. Earle, *L. C.*, 462–463. When in the Gospels (*Luke*, XVII, 6), it is said "if ye had faith even as a grain of mustard seed, ye might say unto this sycamine tree, Be thou plucked up by the root and be thou planted in the sea; and it would obey you," the verb used to translate "plucked up by the root," is 'awyrtwalian.'

in the house, and we may add tubs and vats, which also came within the latter's province.[1] He was also to "bridge between the houses" (betweox husan bricgian), and one can only conjecture what this flooring or bridging was. The 'husan' were, without doubt, the buildings which had in process of time grown up about the manor house, the 'houses,' perhaps including the stalls which formed a part of the 'burh' proper, though this is less likely, and certainly not the folds. The importance of such flooring to the bowers and provision houses is evident, but we can get no light upon the manner of its construction, and find no mention whatever of it elsewhere. It would doubtless be of rough logs, possibly hewn on one side, and was for the purpose of keeping the household servants and other dependents from the mud, which probably formed the surface of much of the land in winter and spring.[2] After speaking of the stalling of the horse, and cleaning the floor, which may mean any floor or all floors, the account closes in the usual manner, with the injunction that the gerêfa is to do constantly something which falls to his lot, and which may be necessary.[3]

This outline to which, except where explanation seemed necessary, we have closely adhered, is by no means a complete one; yet it is of the greatest value. It shows that the system of husbandry, existing even five hundred years later, in Tusser's time, had changed very little from that of the Saxon period. It shows how slight was the Norman influence upon the agricultural life, and how tenacious were the old customs. Of course it did not need a study of the *Gerefa* to make this known, but nowhere can we find a more satisfactory proof of a widely accepted conclusion.

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[1] *Aelfric's Colloquy*, W.-W., 100.

[2] We do not think that Kluge's explanations throw much light upon this subject. *Englische Studien*, IX, 506.

[3] The schedule of these duties is as follows. *Gerefa*, 13.

A he mæig findan hwæt he mæig on byrig betan; ne ðearf he na unnyt beon ðonne he ðær binnan biþ; oððe hus godian, rihtan and weoxian and grep hegian, disceard betan, heges godian, weod wyrtwalian, betweox husan bricgian, beoddian, bencian, hors anstyllan, flor feormian oððe synnes sum ðing ðe to nyte mæge.

CHAPTER VI.

(*a*) The Farm and House Utensils.

From the manor enclosure with its buildings, its yard and gardens, the author passes to the examination of the instruments used in tillage and in the daily work of the household. He prefaces his somewhat perplexing lists with the injunction that the gerêfa is to procure many tools for the tûn and to possess many utensils for the houses [1] and then goes on to give two valuable paragraphs [2] to a discussion of his subject without regard to order or arrangement. It is a curious medley and in the midst of it he confesses that there is no man who can recount all the tools which it is necessary for the handicraftsmen to have and he seems to be constantly in a state of discouragement at the task before him. Liebermann says, that "as a writer he shows little experience, the work was to him unpleasant, he does not maintain even an intelligent arrangement; common and minute details relating to the garden, house and field he mixes together; many things he passes by, others he juxtaposes because of their alliteration." [3] Yet he has given us one of the largest and most purely Saxon lists that we have, more important in some respects than those of Aelfric and containing a number of words wholly new.

Remembering the nature of the labors performed by the tenantry, which have been discussed already, and the different

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[1] He sceal fela tola to tune tilian and fela andlomena to husan habban. *Gerefa*, 14.

[2] 15, 17. The division into paragraphs is by the editor.

[3] *Anglia*, IX, 254–255.

pursuits which demanded attention in the farmstead and the house, together with the general location of the farm buildings and outhouses, it will not be difficult to understand the meaning, so far as a translation may be obtainable, of the tools and utensils mentioned in these lists. There are but few which cannot be interpreted, but these few must be left for philologists to worry over, while we accept only a conjectural meaning.[1] In identifying the tools mentioned with the modern representative of the same name we can correct some misapprehension by referring to the plates in Strutt's Horda Angel-cynnan.[2] The chief utensils used in agriculture were as follows: plough-share[3] and coulter,[4] goads with their tips of iron,[5] spades,[6] shovels,[7] mattocks,[8] rakes,[9] forks,[10] weeding hooks,[11] barrows,[12] harrows (?)[13] as well as the necessary fittings for wagons[14] and ploughs.[15] In harvest work there were

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[1] Notably 'sticfodder,' which seems to be capable of three translations; a spindle cover, a purse for coins and a spoon-holder, or protector. *Gerefa*, 17, note 94. Translations of 'timplean,' 'amb' and 'cip' (15) have not yet been given with entire satisfaction.

[2] Joseph Strutt, *Horda Angel-cynnan*, 3 vols. London, MDCCLXXV.

[3] scear (see above page 253).

[4] culter (*Ib.*) *Strutt*, pl. xxvi, xxxii, fig. 7. This word is the Latin *cultur*.

[5] gadiren, *Str.* ix, 3, x. W.-W. gives 'gadisen.'

[6] spade, *Str.*, viii, 4; xiv, 4. The spade in the calendar picture is of a peculiar construction.

[7] scofl. [8] mattuc.

[9] race. This is the subject of one of Cynewulf's riddles. He says "I saw a creature in the burgs of men; it feeds the cattle and has many teeth. Its face goeth downwards in use; it carefully plunders and draws homewards. It hunts on the walls and seeks growing things; it continually finds those things which are not fast and allows only the beautiful rooted things to stand fast in their place in the field. *Riddle* 35. *Cf.* Fitzherbert, 33.

[10] geafle, generally two tined, *Str.*, pl. xi, xii. *Cf.* Mod. German, gabel. Forks for table use seem to have been known. Akerman mentions one found in a tumulus which was made of iron, fixed in a handle of deer's horn. *Pagan Saxondom*, pl. xxxvi.

[11] weodhoc. *Cf.* Fitzherbert, 31. [12] bærwan.

[13] ege⁊getigu (*acc.*), see above page 205, note 1.

[14] wængewædu, (*acc.*) *Str.*, ix, 3. [15] sulhgesidu (*acc.*)

used scythes,[1] sickles,[2] flails,[3] fanners,[4] sieves,[5] woad-spits,[6] and binding hooks.[7] For cutting timber and carpentering we find axes,[8] adzes,[9] bills,[10] hatchets,[11] beetels,[12] crowbars,[13] saws,[14] planes,[15] chisels,[16] awls,[17] and augurs or nave borers,[18] which were for the purpose of boring the nave of a wheel. For general use in the house there was a large variety of utensils.

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[1] siðe. The scythe in early times seems to have had a straight snath, like a rake handle, without any smaller handles, and with a heavy blade. Calendar picture for August. Later it was slightly curved and had a single handle. *Str.*, xi, xxxii, 10. In Aelfric we learn that the blade passed through a hole in the handle, rather than the handle through the blade. *Hom.*, II, 162. Cockayne thinks that the pattern was borrowed from the Celts, II, xiii. *Cf.* with the Shetland scythe. Mitchell, *Past in Present*, 94.

[2] sicol. The sickle was very much like our own. *Str.*, xi. The word is Latin.

[3] to odene fligel. There is other evidence to prove that the 'odene' was frequently used to mean threshing floor. *Str.*, xi.

[4] fann (vannus), W.-W., 141, 10.

[5] hriddel, hersyfe. These were for both house and barn use. Aelfric tells us of a winnowing sieve 'hridder' which must be the same as 'hriddel' he also calls it a vat (fæt). Had it the shape of a vat? Aelf. *Hom.*, II, 155. Note also 'syfe' = *cribrum*, W.-W., 123, 8. The word survived in the form 'riddle,' as for example a 'whete ridle' and 'ote ridle' is given in *Wills and Invent.*, Surtees Soc. (1835), 253.

[6] wadspitel.

[7] tigehoc. Possibly an instrument for binding the grain sheaves. See Calendar picture for June.

[8] æcs. An axe for slaughtering sheep is pictured. *Str.*, xvii, 2.

[9] adsa. For hewing. Calendar picture for July. *Str.*, xiii, 6; xxvi, 3.

[10] bil. Not our axe (beil) says Zupitza. Probably a bilhook, or pickaxe.

[11] cimbiren. M. E. 'chimbe,' according to Strattman, meaning cooper's hatchet. (Liebermann.)

[12] bytel. Possibly simply a heavy hammer, all varieties were in use. *Str.*, xxiv, K–L; vi.

[13] ipping-iren. A crowbar or chisel, an opening iron.

[14] sage (*acc.*). We know of no representation of a saw in the manuscript illustrations.

[15] scafa. Possibly some kind of a draw knife.

[16] byrs. Glossed *scalprum* (W.-W., 45, 15), therefore a knife of some kind.

[17] awel. Used also by the shoemaker (W.-W., 97, 16, 17).

[18] næfebor. The nave in the wheel, the hole for the axle. The axle in Cynewulf's riddle was abundantly oiled. *Riddle* 71.

In housekeeping brooms,[1] crocks,[2] jars,[3] butts,[4] large and small, pouches or bags,[5] balances,[6] willow-baskets,[7] that is sesters or seed-lips, which latter may have been of wood, and these were used for all kinds of house and farm work; fine sieves and hair sieves,[8] a stand or framework on which to rest them,[9] troughs,[10] churns,[11] cheese-vats,[12] beer-butts,[13] flasks,[14] bath-vessels,[15] pots,[16] filters,[17] salt-vats,[18] chests,[19] coffers,[20] boxes

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[1] besma. A besom made of birch twigs bound together. W.-W., 45, 14,

[2] croc. Glossed *amphora* (W.-W., 123, 23); *olla* (329, 33); *luteum* (433, 21). An interesting explanatory gloss is given 463, 24, *olla aenea* = cytel; *sed ideo additus aenea quia est et olla fictilis, id est* crocca, (an earthen pot).

[3] cyf, and cyflas (*acc. plu.*). Glossed *dolium*, a very large jar; 'cyflas' is merely the diminutive form, (330, 37). See *Gospels, Matt.*, V, 15.

[4] butas (*acc. plu.*).

[5] ceod. Glossed *marsuppia* (31, 40). Possibly a seed-pouch or ordinary bag. The same as 'codd,' and one frequently finds the term in later inventories in the sense of a pillow or cushion made of fustian or other materials. See *Gospels, Matt.*, X, 9.

[6] wæipundern (*acc.*). *Str.*, xxiv, m; 'wæi' glossed *librabat* (63, 21).

[7] syster, sædleap. These measures were in common use. Aelfric notes another variety, 'spyrte,' in his homilies, mentioning them in the miracle of the loaves and fishes (II, 403), and in the *Colloquy*, as baskets for fishermen (W.-W., 93, 43). He adds an important explanation. 'spyrte bið of rixum gebroden oððe of palm twygum.' The same may have been true of the sester and seed-lip, though the former we know to have been made of twined osiers and willows (as baskets now are) from the words 'wilian' and 'windlas,' in the *Gerefa*.

[8] See pp. 251, 268, n. 5.

[9] tamespilan (*acc.*). Cockayne, III, 362, 'temse'; Liebermann, *Anglia*, 262, n. 91.

[10] trog. A trough probably, yet glossed *canthera*, 12.12; 363.25.

[11] cyrn. Belonging to the dairy. [12] cysfæt. *Ib.*

[13] beorbyden. 'Byden' a frequent form, glossed indiscriminately *doleus, bunia, cupa* or *cuba*.

[14] æscen. Glossed *lagena*, 123,22; a large earthen vessel with neck and handles.

[15] bæðfæt. Probably within the house. But there were bath-houses attached to the Saxon manor, as was the case later (W.-W., 184,9; 186,3). *Str.*, xiii, 3.

[16] mele. *carchesia*, 122,36. 'stelmele' is found in the *Gerefa*.

[17] seohhe, *colatorium*, 123,7, an instrument for straining or filtering. Could this be a cheese-cloth?

for yeast,[1] jugs,[2] soap boxes,[3] pans,[4] meal chamber,[5] kettles,[6] food bins,[7] oven rakes,[8] mixing shovels[9] and ladles.[10] For use on the table,[11] as well as in general house-wifery, there were dishes,[12] goblets,[13] ewers[14] and cups;[15] for illumination, candle-

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[18] sealtfæt. This is the only instrument which the *Gerefa* mentions for salt.

[19] cyste. [20] myderce. [1] bearmteag. [2] læfel.

[3] sapbox. It is agreeable to find even this evidence of cleanly habits.

[4] panne. Glossed *patella*, 123,6. These were used both in cooking and on the table.

[5] meluhudern, meal cellar. 'hudern' is the same as 'hedderna,' storehouse, in Aelfric's *Colloquy*, 98,3.

[6] cytel, lead. The first made of brass, *aenea*, not earthenware, *fictilis*. See page 269, note 2. The position of 'lead' between 'hwer' and 'cytel' seems to show that it is a kettle of some kind. Liebermann suggests 'leadcytel,' a lead kettle. But 'lead' itself as is seen from its presence in a large number of glossaries, means a cauldron. In *Tusser* we have the following:

> Mawe hawme to burne
> to serve thy turne
> To bake thy bread
> to burn under lead. § 56, verse 14.

Herrtage, the editor of *Tusser*, in the glossary refers to the Gaelic 'luchd,' meaning a pot or kettle; this would show its origin to be Celtic. See Prologue to *Canterbury Tales*, 202, "forneys of a leed," and *Havelok*, ed. Skeat, 924. This seems conclusive that 'lead' should not be translated 'blei' as Liebermann has done.

[7] yrsebinn, fodderhec. The first is literally an iron bin. The latter seems to be a fodder rack. The first part of the phrase is our word 'fodder.'

[8] ofnrace. Whether this was for cooking purposes, or for cleaning the oven, is uncertain.

[9] mexscofl. Possibly for mixing seed peas and beans, barley and wheat, which we know was a common practice.

[10] hlædel. Perhaps used by the lead-worker as well.

[11] beod. There are a number of illustrations of tables set in *Pict. Hist.*, I, 324; 336–337. There are many varieties, generally of simple construction, but occasionally having carved legs and other adornment.

[12] dix. *ferculum*, 21.35; *paneta*, 37.14. This is an unusual form of 'disc.'

[13] bleda (*acc. plu.*). The gloss. (W.-W.) gives *patera*, *fiola*, *scala*. Beautiful reproductions of cups and drinking glasses may be seen in Akerman, *Remains of Pagan Saxondom*, pl. xvii, xxv, xxvi.

[14] hwer. Probably used in cooking, a kind of kettle (W.-W., 123.39).

[15] cuppa. Of many varieties. *Str.*, xvi, 1–5; xxiv, 1–20; above, note 13.

sticks,[1] lanterns,[2] lamps[3] and their accessory, the oil can;[4] besides these, the Saxons used shears,[5] measures of some kind,[6] branding irons,[7] it may be for both men and cattle, piper's horns,[8] leather bottles[9] and ladders.[10] They do not appear to have had chairs in our sense of the word; their seats were more like settles,[11] if with backs, if without them they were simply seats, stools, and foot stools.[12] The Saxons sat or half reclined at table. Then too there is the suggestion of a heating apparatus, a brazier, or something like that,[13] which may represent an early form of the 'iron chimney,' which was used in the sixteenth century, and was the forerunner of the stove. There were certainly fire-tongs.[14] Both of these may have been

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[1] candelstaf. See illust., *Pict. Hist.*, I, 285, and *Gospels, Matt.*, V, 15.

[2] blacern. The invention of Aelfred, according to Asser, *Pict. Hist.*, I, 285. It may mean here nothing more than an oil-lamp.

[3] lęohtfæt. This a picturesque word, light-vat. *Matt.*, V, 15, is as follows: 'Ne hi ne ælað hyra leoht-fæt and hit under cyfe settað, ac ofer candel-stæf þæt hil onlihte eallum þe on þam huse synt.' *MS. Corp. Chr. Coll.*, 140, Skeat ed., 1887. The Lindisfarne and Rushworth MS. give many other forms for the translation of this verse in Matthew. Besides 'leoht-fæt' we have 'ðæccille,' a rush light, and 'blæcern;' besides 'cyfa' we have 'sestre' and 'mitte' in the sense of a bushel; besides 'candel stæf' we have 'leht-isern' and 'candel-treow.' These are interesting because they are, in part, Northumbrian forms.

[4] ælhyde (*acc.*), oil-holder.

[5] sceara. For both horses and sheep. *Str.*, xxiv, a.

[6] mete. Its use is wholly conjectural.

[7] brandiren. *Pict. Hist.*, I, 261.

[8] piperhorn. *Str.*, xi; herald's horn, ii, 2; trumpeter's, v, 4; soldier's, v, 5; hunter's, xii.

[9] cyll, ascopa. The making of these was the work of the shoemaker.

[10] hlædre. For an illustration see Ellis, *Plates to Caedmon's Paraphrase*; *Archaeologia*, XXIV, pls. lviii, lxxxix. *Str.*, vi, xxxii, besieging ladders.

[11] 'setle' is not given in the *Gerefa*. It was rather a seat of honor. God's throne and kings' thrones are often called settles, and the elaborate and much adorned seat for the lord was the 'setle.'

[12] hlydan (*acc.*), sceamel, stol. *Str.*, xxxiii, K, L, M, N, O, P.

[13] fyrgebeorh. For the smithy, smiððe, see illustr., *Caed. Met. Par.*, lxix; *Pict. Hist.*, I, 287; *Str.*, vii, 3; xxxii, 9.

[14] fyrtang. *Str.*, xii, xxiv, f. 'Tangs' continued to be so called until a late period.

used by the smith, for he undoubtedly used many of the tools above mentioned, though the author omits, in a somewhat disheartened manner, any mention of such as were intended for the craftsmen. It is impossible, and indeed unnecessary, for us to attempt an exact classification. For the beo-ceorl there were hives[1] and honey bins,[2] the former made of rushes, the latter probably of wood. For the stable the horse-comb[3] is specially mentioned, but brooms, forks, binns and buckets must have been used there.

Spinning, weaving, dyeing and embroidering were distinguishing features of Anglo-Saxon industry, and were entirely confined to the women. The distinction which King Aelfred made in his will between the spear half and the spindle half,[4] dates from the garden of Eden according to the illustration in Cotton. Nero, C., 4, where Adam is receiving the spade and Eve the distaff, after their fall and expulsion from the garden.[5] The same characterization is seen in Welsh law concerning inheritance where "the distaff acquired the privilege of the spear," *ad fusum a lancea*,[6] and so deep seated was the distinction that in the investigation of Anglo-Saxon graves there is often found at the present time the spear or the spindle buried with the body of the dead.[7] From our lack of knowledge as to the exact method used and tools employed it is difficult to translate all the terms for 'tow tools,'[8] referring

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[1] hyfe. *Cf. Domesday St. Paul*, 131. et v rusche.

[2] hunigbinn.

[3] horscamb and sceara. For a list of stable utensils see *Tusser*, § 17, verses 2, 3, 4, 5.

[4] Mîn yldra fæder hæfde gecweden his land on ðа sperehealfe, nâes on ðа spinlhealfe. *C. D.*, 314. *Earle, L. C.*, 148.

[5] *Pict. Hist.*, I., 286. 'Wæpned and Wyfman.' *A. S. Gosp., Mark*, X., 6.

[6] Lewis, *Anc. Laws of Wales*, 13.

[7] Akerman, *Remains of Pagan Saxondom*, Intr., xii, 48, 73-74, and *Archæologia*, XXXV, 267, note. Also "On the Distaff and the Spindle, as the Insignia of the Female Sex in Former Times." *Archæologia*, XXXVII, 83 ff.

[8] towtol. Notice the 'towhus' in W.-W., 186,29, and Wright's note thereto.

to spinning and weaving. Both of these industries were in a primitive state of development, and in the former case consisted of nothing more than the distaff, spindle and whorl, and in the latter of the frame, warp, shuttle, with a few accompanying conveniences. Strangely enough the distaff is not mentioned in this list, but it is possible that we are to interpret the word signifying flax-coil or twist[1] as referring to the distaff. There were also the spindle,[2] reel[3] and yarn-winder.[4] For weaving we have a number of important terms applying to the loom, which supplement the meagre knowledge furnished by the Saxon literature. There was the frame of the loom,[5] the web-beam,[6] later called yarn-beam, the

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[1] flexlinan (*acc.*). This seems to refer to the coil about the head of the distaff.

[2] spinl. Although the whorl is not mentioned it is probable that it is included in 'spinl.' Both have been found in the graves and mounds, the whorl made of bone, probably cut into shape, for it is difficult to believe Akerman when he thinks that it was turned on a lathe. The spindle was made of iron, but many must have been also made of wood. *Pagan Saxondom*, 73–74. *Archæologia*, XXXIII, pl. xii. For more details regarding the history of the spindle and whorl, see Mitchell, *Past in Present*, Lecture I. *Cf.* also 'swingle' in Aelfric's *Lives of the Saints*, II, 24, and note to l. 367.

[3] reol.

[4] gearnwinde.

[5] stodlan (*acc.*). This in M. E. was 'studul' which Strattman glosses *telarium*. In later provincial use the form was 'studdles,' see Halliwell; also Wright's *Prov. Dict.* The word may be related to 'studu' and may have referred originally to the upright posts of the loom. The following is from Braithwaite's *Strappado*:

> Each plies his worke, one cards, another spins,
> One to the *studdles* goes, the next begins
> To ravell for new wefte, thus none delay
> But make their webbe-up, gainst each market-day.
>
> Nares, *Glossary*.

[6] lorg (lǫrh). This is glossed *liciatorium* or webbeam, the horizontal beam at the top of the loom. There is no indication of the use of *liciatoria*, the rods to which the leashes or heddles were attached, and by which the threads were moved for the admission of the shuttle and the making of the pattern. W.-W., 187,11. *Cf.* I, *Sam.*, XVII, 7.

wool-card,[1] and wool-comb,[2] the weft or woof,[3] the weaver's rod,[4] the shuttle,[5] bobbin[6] and reel for winding thread.[7] In addition to these tools as necessary to the completion of the work which the spinster and webster have begun are those which the seamster made use of in preparing the cloth for use. Such were needles,[8] shears,[9] and a seamstick,[10] which was some kind of measure, and when the work with these was completed then the linen was laid away in the press,[11] or,

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[1] timplean. This word is difficult to interpret. The first part of the word may have survived in 'tum,' a dialectic word meaning to card wool for the first time. Liebermann suggests this. *Cf.* Halliwell, also Brockett, *Gloss. North Country Words.* 'Timplean' may therefore be a wool-card.

[2] wulcamb.

[3] wift, weft or woof. W.-W., 187,32. Cynewulf, *Riddle* 36.

[4] amb. We can get only an uncertain light upon this word. Liebermann has suggested its relation to 'am' meaning a weaver's rod. This word is found in Cynewulf, *Riddle* 36. 'ne mec ôhwonan sceal, âmas cnyssan.' *nor does the weaver's rod anywhere press me down.* This seems the most acceptable interpretation. The second word with this signification is 'pihten.' Leo, *Angels. Gloss.*, 520,16, "der weberkaum aus latein *pecten*." This was a weaver's comb, the teeth of which, inserted between the threads of the warp, by a downward pressure or stroke packed the threads of the web closer together. It served the purpose of the 'am' or slay rod. In fact 'am' is the Saxon translation in Cynewulf's riddle of the *pecten* (duro nec pectine pulsor) in Aldhelm's version. Prehn, *Rätsel*, 232.

[5] wefl, also sceaðel. It is not easy to determine the difference, unless the former refer specially to the thread which the shuttle carried and the latter to the sheath within which the thread was contained. [6] slic.

[7] crancstæf. Halliwell gives 'crank' a reel for winding thread. This seems to have given its name to the crankster 'crencestran' a weaving woman. *C. D.*, 1290. The last word which relates to the loom is 'cip' and upon this we can get little light. Liebermann gives 'weberbaum.' It may be related to M. E. 'kippan', from which came the M. E. 'kip-tree,' the horizontal roller of the draw well (Halliwell), or the beam of a draw well (Stratmann). The Latin gloss is *telo.* It may have been the upper or lower cylinder beam used for tightening the warp.

[8] nædle. *Cf. Colloquy*, 'oððe seamere nædle,' W.-W., 99.

[9] scearra. [10] seamsticcan (*acc.*).

[11] presse, *pannicipium*, W.-W., 600,14; *vestiplicium*, 619,10. This can be nothing other than the familiar clothes-press.

when of a specially fine stuff, as Cynewulf says, was hung up in the 'flet' where the heroes were drinking.[1]

It is evident from the 'tow' tools here given and from such as are given in other lists[2] that spinning and weaving were in a very moderate state of development. The simple distaff, spindle and whorl were ignorant as yet of the wheel, which came into use sometime before the sixteenth century,[3] and the loom itself was without treadles and we cannot be certain that it had cylinders for tightening the warp. Yet weaving among the Anglo-Saxons was carried to a considerable degree of excellence in the cities and monasteries, though improvement took place very slowly in the remoter districts. The dialects show this as does also Dr. Mitchell's story of the old woman's distaff, spindle and potatoe whorl. But generally speaking the labor of the Saxons whether in house or in the field was

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[1] Cynewulf's riddles are decidedly vague. We venture the following with the aid of Grein's translation:

"I was therein, where I saw something, a struggling creature, which a tree trunk wounded, a noisy wood; it receives deep wounds as traces of the conflict. Darts (knives ?), were woe to the creature and carefully the wood was fast bound, one of its feet was stationary, the other work-active sometimes flying in the air, at times near the ground (possibly referring to the stationary warp and the flying woof from the shuttle). Near by was a tree standing bright with foliage (the reel with the colored yarns or web). I saw that which was finished, which had escaped the rage of the shooting (of the shuttle ?), borne to the flet where the heroes were drinking." *Riddle* 57.

The second has for its answer the coat-of-mail and refers to the loom indirectly. We translate but a part of it:

"Know I that I was not worked out of wool-fleece; out of hairs through fine art in my heart's feelings. I have no wound woof (wefle), nor have I a warp (wearp), nor do the threads resound for me through the force of the strokes. Nor does the shuttle fly crackling through me nor does the weaver's rod (am) anywhere press me down." *Riddle* 36.

[2] This list should be compared with those given in Wright-Wülcker's *Vocabularies*. Aelfric's *Supplemental List*, 187–188, also 262 and 293–294.

[3] The first mention of a spinning wheel that we have noticed is in an inventory of 1499. 'A spynyng gwheel, xd,' *Wills and Invent.*, Surtees Soc., (1835), 104.

wasteful and crude. They sought from the soil only enough to satisfy the most pressing wants and the homespun which was used on the estate itself called for little improvement in weaving. Then too they lacked inventiveness and taste; the tools which they employed were cumbrous and required much time and labor to satisfactorily use them. This Cynewulf indirectly tells us in his riddle of the bellows, for while Aldhelm from whom he copied had laid special stress upon the metal adornment, the artistic work, Cynewulf more familiar with the Saxon bellows as the smith used them lays his emphasis upon the strength which was needed by the man who attended the blowing. This would point to a ruder instrument and the need of a greater muscular exertion.[1] Their houses were small and inconvenient; the cottages mere huts and the manor house rude and simple. We can see the reason why hangings adorned the 'flet' and the bowers and why a century before Aelfred (according to Asser) invented the lantern; one was as necessary as the other, for the houses were so badly built that the wind blew grievously through the crevices. Gradually however through the monasteries and royal houses, where luxury and beauty first appeared, the influence of Roman art began to be felt and thence very slowly it penetrated to the more distant manorial estates. Christianity and refining and civilizing influences went hand in hand, and though the former was often unsuccessful, yet its motive was always high and its benefits generally appreciable. Even in the lists above given we can discern a distinct Roman influence and a slight evidence of Celtic custom, although in the main the tools are English in origin and character.

These lists as the author so frequently declares are by no means complete, yet they are very valuable in view of the fact that there are comparatively few documents referring to Anglo-Saxon household and praedial life. We are told practically nothing about those other occupations for which special uten-

[1] Prehn, *Rätsel*, 211.

sils must have been provided, wherever they existed, such as, salt-preparing, baking, milling, shoemaking, gardening, fishing, and hunting. But in these particulars the labor was simple and few tools would be required differing from those already given. The refinement and elaboration of these trades had as yet hardly begun, though the beginnings of all can be seen in the manor before us. The chief pursuits upon which some light is thrown are weaving and housework, the use of woad, madder and flax and the cultivation of vineyards and gardens. Then too our knowledge of the relation of the work-people to the lord or more properly to the gerêfa is largely increased and we get an inside view of the working life of the estate, which is in most particulars clear and picturesque.

(*b*) Recreations.

The labors of the dependents and tenants were alleviated in many ways; the monotony of their short life was broken in upon by relaxation from work in the form of feasts and festivals. These too had grown up with the Saxon people; in part tracing their origin to the obscurity of their heathen life; in part newly introduced by Christianity or molded over to fit the new environment. There was no desire on the part of the Church to take from its converts the custom or the charm which contributed to their pleasure; the Church uprooted nothing which might be trained to the bearing of good fruit; it sought only to divert the energy and activity into Christian channels; to utilize all material of whatever kind in the erection of a Christian structure. There is inherent in the Teuton, a pleasure in boisterous merry-making, in gormandizing and drinking. He is fond of music and singing and is above all social in the association with others, which feasts and ale-houses bring. The Anglo-Saxon was no exception and the whole history of rural England, where the old customs remained so persistently, and where the roughness, naïvete and coarseness of the old pagan and early Christian

days were still to be seen, is filled with the celebrations of every possible day and period from which some pleasure of this kind could be derived. And such days were by no means a part always of the Church calendar: quite as often were they of pre-Saxon origin or survivals of pagan Saxondom. Of this feasting which attended certain days of the calendar and harvest year the *Rectitudines* gives us an indication, but these feasts were only such as the lord was under some duty-bond to furnish to his people by virtue of custom and folk-right. We are left wholly ignorant of the character of the social life down among the villagers, except where a glimpse is given of the 'gebeôrscipe,' as in the story of Caedmon, or light is thrown from a study of folk-lore and the customs of a later period. The feasts which the lord gave belonged to the people; they were included among their *rectitudines*, their rights; they were a part of the established custom which the gerêfa was specially cautioned to maintain and preserve. Such do not appear to have been confined to any single estate for it is clear that they were a privilege of the people generally. Yet while the custom which established them is distinct from the laws of each individual lord, which were of no weight beyond the limits of his own jurisdiction, and while these laws differed from the laws which regulated other estates throughout the kingdom yet it is probable that in the number and character of these feasts and festivities there was a very general uniformity. Upon the estate of the *Rectitudines* the number of the regular feasts seems to have been four; one at Yuletide, one at Easter, one at the end of the ploughing-season and a fourth at the time of the harvest-gathering. Those at Yuletide and Easter were time-honored and from the very nature of the celebration were exempt from the lord's caprice. But it would appear that the ploughing and harvest feast might be omitted if the season had been a bad one. Such duty on the part of the lord was in origin dependent upon his favor and good will, but we have here an undoubted instance where such favor has become crystalized into an obligation, an

obligation not always welcome or of advantage to the lord. It is doubtful if by the eleventh century the lord ever felt justified in omitting the feast, even though the season might have been particularly disastrous. At Yule twelve days were set apart for special observance; these were the days between the beginning of the year, midwinter day, the twenty-second or third of December and the night of holding the winter carousal. This night was later called Twelfth Night after the reckoning was made from Christmas,[1] and fell on the sixth of January. The season was one of good fellowship and merry-making, as it was also a season of holy commemoration, and the Christian celebration was in perfect accord in the minds of the peasantry with the customs with which they were already familiar from their pagan antecedents. That, in addition to the hall-feast which the lord gave to his tenantry, there were 'gebeôrscipes' in their own houses, rude merrying within the village itself, the fulfilling of superstitious customs and rites, which related to the turning of the year and the approach of the lengthening days which foretold the coming of spring, we can hardly doubt. Of the exact character of such we know nothing except by inference. The Yule log, the Yule boar, the Yule straw are older than the *Rectitudines.*[2] The feasting at Christmas, whatever was the form it took, was followed by the 'Easter-feorm,' similarly a compound of pagan and Christian ceremonial. The fast and feast-tide at Easter lasted for fourteen days, during which the second feast was given, probably on a day immediately following the feast-day itself, and with the celebration of this season went a host of curious fancies and customs.

The other entertainments which were allowed the gebûras and cotsetlas were more directly connected with their farm

[1] In the *Menologium* the author makes midwinter day and the day of the Nativity the same, ll, 1–2.

[2] On the meaning of the word 'Yule' see Skeat, *Etym. Dict.*, 725–726. Atkinson, *Cleveland Glossary*, 588. On the Ceremonies, Elton, *Origins*, 390–391.

life. The 'bên-feorm' (Thorpe's probable emendation for 'bend-feorm')[1] we at once recognize to have been a dinner or corrody given at the end of the precations, the harvest work of reaping and mowing. This custom was prevalent in the estates of the Bishop of Durham in the twelfth century, for the Boldon Book says that after the villeins at Whickham, who made three precations in autumn, had reaped the corn and mowed the meadow and made their precations they were to have a corrody.[2] There was a similar entertainment given to the tenantry of the *Rectitudines* after the ploughing season when a 'gyt-feorm' or granted feast was indulged in.[3] In the same manner the villeins at Whickham received a corrody after ploughing and harrowing.[4] The use of the word 'feorm' leads to the supposition that the gebûras and cotsetlas enjoyed something more elaborate than the mere corrody of later days and yet there can be little doubt that the 'bên-feorm' of the *Rectitudines* corresponds to the ale and meat bedrips of which we have already spoken. Further knowledge of the nature of these feasts or of how they were conducted does not appear. No Anglo-Saxon has given such a description, but it will hardly require a vivid imagination to picture it to us, if allowance be made for the greater rudeness and coarseness of the times. Whether feast, corrody or dinner our knowledge of the feastings of later England and Scotland, and even of this country where in the country places an entertainment was wont to accompany the conclusion of nearly every stage of the farm work, will not lead us far away from the probable nature of the feasting. Of a similar kind was the 'feorm' at the close of the mowing season, the 'mete' at the

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[1] Schmid, 382, note to c. 21. Leo, however, thought that 'bend-feorm' was "das band- oder binde-fest." *Rect.*, 135.

[2] *Boldon Buke*, 33–34.

[3] Leo, 135. Schmid accepts Leo's translation but is not quite satisfied with it. 382, note to c. 21.

[4] *Boldon Buke*, 33. *Cf.* Vinogradoff, *Villeinage*, 174, 284.

completion of the stack, in which as well as in mows (muga) the hay was heaped. In addition there was either the grant of a wain-stick at the completion of the wood-lading or—according to another construction of the passage—the grant of a wain-stick at each carting of the wood-lades. With the close of the corn-harvest and the stacking of the corn in the ricks, where it remained before threshing, the tenants received either a feast or—for here also the sense of the text is uncertain—the cap which topped the rick when the corn was pitched off for the threshing.[1]

If the statements in the laws or the commands of the Church, regarding feast days, were thoroughly carried out, the Anglo-Saxon freeman must have had a very considerable amount of time to waste, or to turn to his own advantage. According to the laws of Aelfred there were forty-one days, exclusive of Sundays and fast days, during which the freeman was not obliged to work. This privilege was not extended to the esnes and theôwas, for to these was to be given according to the mercy of the lord and their own deserts.[2] Such laws were the outcome of ecclesiastical influence, and Wulfstan points out very clearly the wishes of the Church in these respects.[2] It is however difficult to believe that the publication of these laws, by the king and his Witan, had much influence in securing their observation upon the manorial estates. No mention whatever is made of them in the *Rectitudines*, and if it had been a common right of the gebûras and cotsetlas to abstain from labor on these days, it is reasonable to suppose that something would have been said about it, particularly if the author was, as we have assumed him to be, an associate in a monastery. The gebûras at Hysseburne

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[1] feola syndan folc-gerihtu; on sumere þeôde gebyreð winter-feorm, Eâster-feorm, bend-feorm for rîpe, gyt-feorm for yrðe, mæð-mêd hreac-mete, æt wudu-lâde wæn-treôw, æt corn-lâde hreac-copp and fela ðinga þe ic getellan ne mæig. *R. S. P.*, 21.

[2] *Aelfr.*, 43.

[3] *Sermones*, 116–118; 208–209.

were allowed freedom from week-work during the week at midwinter, the week at Easter and the week at the Gang-days. From the periods selected it is evident that this was due, in part, to the ecclesiastical regulations. But the manor, at Hysseburne, was a royal estate, belonging to king Aelfred himself, and we should naturally expect to discover some indication of the influence of the Church upon it. It is not easy to understand the entire absence of such regulations, in the *Rectitudines* and *Gerefa*, but this silence will explain the omission, in these pages, of any discussion of the Church and the shriftshire in their relation to the manor and its lord. According to these ecclesiastical and legal regulations, severe penalties were exacted for working on Sunday, and "Sunday" lasted from 'sæternesdæges none oð monandæges lihtinge,' that is from Saturday noon until Monday at dawn.[1] Not only was manual labor, on the part of the freemen, forbidden but marketing, hunting and holding the folk-môt as well,[2] though Wulfstan more liberally allowed that the latter might be held if there was great need.[3] In the beginning of the tenth century the law, as expressed in the treaty between Eadward the Elder and the Danish king Guthrum II, absolutely forbade a freeman to work on a festival day under penalty of the loss of freedom or a fine.[4] The same law also forbade that the theôw do this under penalty of his hide or hide-money, and it denied to the lord the power to compel him to do so. If every festival and fast were religiously kept by the Anglo-Saxon freeman, then he would lose nearly a quarter of the working year. There can be little doubt that such was not the case; that small attention was paid to other than the important festivals including Sunday,

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[1] *Eadgar*, III, 5; *Cnut*, I, 14; *Wulfstan*, 208, ll, 10–11.

[2] *Aethelred*, V, 13; VI, 22.

[3] *Wulfstan*, 208, ll. 13–14, 'butan hit for micelre neodþearfe sy.'

[4] *Eadward and Guðr. domas*, 7.8.9. Wulfstan in his sermons repeats the law almost word for word.

and that only in and around the monasteries was there any pretence to an abstinence from work. According to Aelfred's law, which we may quote as typical of the church influence, the following feast days were appointed for observance. Twelve days at Yule; the day on which Christ overcame the devil (Feb. 15); the commemoration day of St. Gregory (Mar. 12); the seven days before Easter and the seven days after; one day at St. Peter's and St. Paul's tide (June 29); in harvest a full week before St. Mary's mass (Sept. 1–8); one day at the celebration of All-Hallows and the four Wednesdays in the four ember weeks.[1] Certainly the impression left by the documents, especially the laws, is that the church was a great power and that its influence must have extended widely, yet it is to be remembered that these same documents were written through the influence of the bishops and by the clerks of the monasteries and royal courts, where was the life and strength of the Christianizing movement and that they were in consequence deeply tinctured with the laws which the church made for her own well-being. Furthermore it is to be remembered that these very custumals, which throw so much light upon the internal life of the Saxon manor, picture only that life which was influenced, and may we say more rapidly feudalized, by the close contact with the Church and royalty and by the spirit of Roman custom, of which these were the channels.[2] We may therefore be allowed

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[1] *Aelf.*, 43. Lingard gives two lists, the martyrology of Bede and another a little later, in addition to the *Menologium* already quoted. He also gives several calendars of a later period. These festival days were often called fowl-days, in opposition to the 'freolsdagas' and 'festendagas.' Thorpe, *Dip. Saxon*, 460.

[2] We believe that it is clearly demonstrable that the author of the *Rectitudines* and *Gerefa* had before him some definite manor as a model, presumably the one on which he himself lived. This would seem to be put beyond a doubt by such phrases as the following: 'Hêde se þe scire healde, þæt he wite â, hwæt eald land-rædden sŷ, and, hwæt þeode þeâw. . . *Mid ûs is gerêd.* . . .' 'Land-laga sŷn mistlîce, swâ ic êr beforan sæde; ne sette we nâ þas gerihtu ofer ealle þeôda, þe we êr beforan ymbesprêcon; ac

to doubt whether feudalization had advanced at this time so far in the more distant communities. The documents are the Church's own so that it is no wonder that we believe her influence to have been more wide-spread than it actually was. It is doubtful if it penetrated away from the municipal and monasterial centres to the isolated manorial estates where among the dependent classes superstition and nature worship still found a secure foothold. Bede gives us many indications of this and in his letter to Bishop Egbert we obtain an interesting insight into the wide extent of this isolation. "We have heard," he says, "and it is common report, that there are many villages and hamlets of our people, located in inaccessible and wooded forest-clearings, where in the course of many passing years a priest or bishop has never been seen, who may have presented there any token of ministerial or divine grace; nevertheless no one of these can be free from the rendering of the tributes to the priestly office. In these places not only is there no priest to confirm the baptized by the laying on of hands but there is no teacher to instruct the people in the true faith or in the discernment of good and evil."[1] Knowing as we do how much of the land of England consisted of dense forests and wide moors and with a conception of the dangers and difficulties which accompanied the journeyings of the priests and monks from the accounts which Bede and Aelfric have given we can realize that these more distant villages and hamlets would be long independent of the control which the Church would exercise. Even where the Church had obtained a foothold, its aim was rather directed toward

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we cŷðaþ hwæt þeâw is þær, *þær ûs cûþ is*. *R. S. P.*, 4, §§ 4, 5; 21. We believe that this manor was in southern England and that the description of it shows that it had come under the influence of Roman civilization and that it had in consequence reached a more advanced stage of feudalization.

[1] Haddan and Stubbs, III, 317. Note also on page 316. Et quia latiora sunt spatia locorum, quae ad gubernacula tuae dioecesis pertinent quam ut solus per omnia discurrere, et in singulis viculis atque agellis verbum Dei praedicare," etc.

the amelioration of the poor as a mass, than as individuals. It endeavored to instil into the hearts of the great a kindness and justice toward those under them; it placed before the latter noble models and high ideals; it spread with unswerving devotion the truths of the Christian doctrine, a devotion nowhere more zealous than in England itself; it taught the peasantry to respect its worship, to seek refuge in its communion, to fear disobedience of its laws; it encouraged their hopes, chastened their immorality, softened their rudeness and thundered at their pagan proclivities. But after thus spreading broadcast the seeds of the Christian faith and law the clergy were too often content with these results, doing little or nothing to draw forth the capacities of the individual man; neglecting to till the soil they had sown, the seed scattered through the exertions of faithful and self-denying priests often failed in its growth.

From the detail which has here been examined it will be seen that the structure of this compact economic unit, the Anglo-Saxon manor, was well ordered and comparatively regular, satisfactorily adapted to the purposes of its existence. The arrangement was systematic, the routine of work comprehensive in the duties which it embraced, and the methods pursued, though primitive, differed greatly from those which attended the wild field-grass husbandry which belonged to the earlier stage of economic life. The cultivation was not haphazard but definite, the farm life was complete and well rounded. Each individual had his place and his work and the interests of each, though always subordinate to the well-being of the manor as a whole, were with more or less care watched over and protected.

Further, as touching the position of the gebûras, cotsetlas and slaves, we should say that they were not the ill-used bondsmen which we are often apt to consider them. Extensive freedom was denied them, yet in those days of lawlessness and warfare, freedom as we understand it was a much less desirable element in man's existence than it is now. What the

Anglo-Saxon ceorl and slave wanted was protection and support rather than liberty, and though he paid for these with the burdens he bore, yet he was not thereby rendered miserable. We are not even sure that the ploughman ever sighed for freedom, for that sigh is the sigh of Aelfric and the Church, who sought to give him his liberty. The freeman's duties were carefully defined, and established folk-right should have prevented encroachment and extension, though we cannot be assured that it always was so. Many privileges, however, and legal rights were allowed him, and even slaves had bounds which could not be overstepped. With few wants, without the consciousness of others, of which he had never known, with the solace of wife and home, rude pleasures and occasional feasts, the Saxon ceorl and the Norman villein seem to have been contented with their position. This simple and self-dependent life, though destined to change with the industrial growth of the kingdom, and to expand under the influence of a greater economic interdependence, lasted with little variation for four centuries.

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